

ZONING ORDINANCE



Town of Pine Level

North Carolina

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ARTICLE I - GENERAL PROVISIONS

101 AUTHORITY AND ENACTMENT

In pursuance of the authority granted by the General Statutes of North Carolina, Chapter 160A, and Chapter 160D, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF PINE LEVEL, as follows:

102 TITLE

This ordinance shall be known and may be cited as the Zoning Ordinance of the Town of Pine Level, North Carolina, and may be referred to as the Zoning Ordinance.

103 PURPOSE

For the purpose of promoting the health, safety, morals, and general welfare of our citizens and the peace and dignity of the Town, this ordinance is adopted by the governing body to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

The zoning regulations in this ordinance are in accordance with a comprehensive plan and are designed to lesson congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

104 JURISDICTION

The area to which this ordinance applies is shown on the official zoning map.

105 INTERPRETATION OF REGULATIONS

The regulations in this ordinance shall be enforced and interpreted according to the following rules:

- 105.1 Uses not designated in the district regulations as permitted or special uses shall be prohibited. Special uses are permitted according to the additional regulations imposed. These special uses can be approved only by the Town Board as specified in this ordinance. Additional uses may be added to the ordinance by amendment.
- 105.2 Regulations set forth by this ordinance shall be minimum regulations. If the requirements set forth in this ordinance are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern.

- 105.3 Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this ordinance, nothing herein contained shall be construed to render such covenants inoperative.
- 105.4 Farm use on bona fide farms in the extraterritorial jurisdiction ("ETJ") is exempted from these ordinances to the same extent it would be exempt from county zoning.

106 VESTED DEVELOPMENT RIGHTS

106.1 In General

Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:

- (A) For which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to N.C.G.S. 160D-403(c) and the building permit has not been revoked pursuant to N.C.G.S. 160D-403(f); or;
- (B) For which a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or
- (C) For which a vested right has been established and remains valid and unexpired pursuant to this section.

106.2 Additional Procedures For Establishing A Vested Right

A vested right to commence a planned development or use of property according to a site specific vesting plan shall be established upon approval of a special use permit or special use zoning by the Town Board. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.

106.3 Term of a vested right

Any building permit issued shall be valid for a term of six months. Unless otherwise adjusted by local ordinance or State statute, development approvals are valid for twelve months.

A right, which has been vested by the Town of Pine Level, shall remain vested for a period of three years from date of approval. A right for a multi-phase development, being a long-term project consisting of at least 25 acres, shall remain vested for a period of seven years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the Town Board when it approves the modification or amendment. A vested right obtained under this sub-section is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this sub-section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:

- (A) When a vested development plan has been at least fifty percent completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and
- (B) Prior to the vested right terminating at the end of the three-year period, the owner of the property may petition the appropriate board for a one-time, two-year extension of the vested right not to exceed a total vested period of five years. In its deliberations regarding the extension request, the board may consider, among other things:
 - (1) the percentage of the project completed;
 - (2) a demonstration by the petitioner of good faith efforts made towards project completion;
 - (3) the reasons for the delay of project build-out; and
 - (4) the compatibility of the planned development with current Town plans and the surrounding landscape. The board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the permit to meet the current code.

106.4 Declaration of a vested right upon voluntary annexation.

A petition for annexation filed with the Town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S. 160D-102(33) or G.S. 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.

106.5 Permit Choice

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, applicant shall have the right to choose which regulation to proceed under. In the event that applicant has elected determination of permit under prior rules, the Town shall not require applicant to wait on final action of the proposed change before proceeding with the approval process.

107 LEGAL STATUS PROVISIONS

- 107.1 In its interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this ordinance, the most restrictive, or that imposing the highest standards, shall govern.

107.2 This ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid as applied to a particular property, buildings, or structures shall not be affected hereby. Whenever any condition or limitation is included in an order authorizing a Zoning Permit, Special Use Permit, Variance, Certificate of Zoning Compliance, Certificate of Occupancy, or site plan approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this ordinance or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

107.3 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances of the Town of Pine Level which are in conflict or inconsistent with this ordinance are repealed and superseded to the extent necessary to give this ordinance full force and effect.

107.4 Statute of Limitations

In accordance with G.S. 160D-1405, a cause of action as to the validity of this ordinance, or amendment thereto, shall accrue upon the adoption of this ordinance or amendment thereto, and shall be brought within two (2) months, which shall be calculated as sixty (60) days, as provided in G.S. 1-54-1.

107.5 Effective Date

This ordinance shall take effect and be in force from and after the 13th day of December, 2021.

107.6 Adoption

Duly adopted by the Board of Commissioners of the Town of Pine Level, North Carolina, this the 13th day of December, 2021.

Jeff Holt, Mayor

Connie Capps, Town Clerk

ARTICLE II - DEFINITIONS

201 GENERALLY

For the purposes of interpreting this ordinance, certain words or terms are defined in this Article. Except as defined herein or in other Sections of this ordinance, all words used in this ordinance shall have their customary dictionary definition. Unless the context clearly indicates otherwise, the terms defined in this ordinance shall have the meanings indicated below:

202 INTERPRETATION OF COMMONLY USED TERMS AND WORDS

- 202.1 Words used in the present tense include the future tense.
- 202.2 Words used in the singular number include the plural and words used in the plural include the singular. Words used in the masculine gender include the feminine gender.
- 202.3 "Person" includes a firm, association, organization, partnership, corporation, trust, and company, as well as an individual.
- 202.4 "Lot" includes the words "plot", "parcel", and "tract".
- 202.5 The word "structure" includes the word "building".
- 202.6 The word "shall" is always mandatory and not merely directory.
- 202.7 "Used", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used".
- 202.8 "Map", "zoning map", or "Pine Level Zoning Map" shall mean the Official Zoning Map, Pine Level, North Carolina.
- 202.9 The words "town board", "governing body", and "Pine Level Board of Commissioners" shall refer to the Board of Commissioners of the Town of Pine Level, North Carolina.
- 202.10 The words "planning board" shall refer to the Planning Board of the Town of Pine Level, North Carolina.
- 202.11 The words "board of adjustment" shall refer to the Board of Adjustment of the Town of Pine Level, North Carolina, established by this ordinance.

203 DEFINITION OF COMMONLY USED TERMS AND WORDS

For the purpose of interpreting this ordinance, certain words and terms used in this ordinance are defined as follows. Except as defined herein, all other words used in this ordinance shall have their usual, customary dictionary meaning.

Administrative decision: Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in N.C.G.S. §160D or local government

development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative hearing: A proceeding to gather facts needed to make an administrative decision.

Abutting: The property directly touches another piece of property.

Adult Establishments: Any principal or accessory structure or use of land, which meets the definition of adult establishment as set forth in G.S. 14-202.10 and the Pine Level Code of Ordinances, but excluding “Massage and Bodywork Therapy”.

Accessory building, structure, or use: A building, structure, or use that is (1) on the same lot with, or (2) of a nature customarily incidental or subordinate to, and (3) of a character related to the principal use or structure on the lot.

Alley: A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Amusement, Commercial Indoor: Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

Amusement, Commercial Outdoor: Any business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, Par 3 golf course, golf driving range, or go-cart course, fish ranch, or similar activity to the general public, but does not include outdoor motion picture theaters, raceways, drag strips, or motorcycle courses.

Automobile, junked: A motor vehicle that is (1) partially dismantled or wrecked; or (2) cannot be self-propelled or moved in the manner in which it was originally intended to move; or (3) does not display a current license plate.

Bed & Breakfast Inn: A transient lodging establishment, generally in a single-family dwelling or detached guesthouses, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

Bedroom: See “*Sleeping Room.*”

Bona fide farm purposes: Agricultural activities as set forth in G.S. 160D-903. Bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.

Building: Any structure having a roof and is used or intended for supporting or sheltering any use or occupancy. *2018 NC Building Code §R202*

Building, height of: The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the height level between the eaves and ridge of a gable, hip, or gambrel roof.

Building Line, front: An imaginary line drawn parallel to the front lot line and tangent with the front facade of the principal building, not including any extensions into the front yard such as porches, steps, bay windows or landings, etc.

Condominium: A project meeting the requirements of the North Carolina General Statutes, Chapter 47A. The type of structure and use rather than the condominium form of ownership shall be the determining factor in deciding whether a use is permitted in a district.

Day Care Centers, Child or Adult: Any facility, other than a private dwelling, operated for the purpose of providing care, protection and guidance to children or adults during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses, but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

Day Care, Home Occupation: An operation in which day care is provided in a private dwelling for up to five preschool-age children, or up to eight other children and/or adults.

Dwelling: Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of N.C.G.S. §160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if use solely for a seasonal vacation purpose. See *N.C.G.S. §160D-102(15)*.

Dwelling, Single-Family Detached: A building occupied by one (1) family, the building housing only one (1) dwelling unit, but excluding manufactured homes and townhouses.

Dwelling, Two-Family: A building occupied by two (2) families, the building having two (2) dwelling units, but excluding manufactured homes and townhouses.

Dwelling, Multi-Family: A building occupied by more than two (2) families, the building having more than two (2) dwelling units, but excluding manufactured homes and townhouses.

Dwelling Unit: A building or portion thereof designed, arranged, and/or used for the living quarters for one (1) or more persons living as a single family, with cooking facilities, excluding units in rooming, boarding, a bed & breakfast houses, family or group care homes, or hotels or motels or other buildings designed for transient residence. See *2018 NC State Building Code: Residential Code §R202*.

Family: One (1) or more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, exclusive of household servants. A number of persons not exceeding five (5) living together as a single housekeeping unit though not related by blood, adoption, or marriage, shall be deemed to constitute a family, as shall a foster care home approved by the State.

Family Care Home: An adult care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons as regulated by NC General Statute 168-1.

Flea Market: A market held in an open area or structure where goods are sold to the general public by individual sellers from open or semi-open facilities or temporary structures. Periodic non-profit fund raising activities are excluded from this definition.

Floor area, gross: The number of square feet of total floor area bounded by the exterior faces of a structure, plus the number of square feet of unenclosed space devoted to the conduct of the use, excluding basements and unenclosed porches, balconies, and terraces, unless used in conjunction with the use, such as for outdoor eating, merchandising, storage, assembly, or similar uses, and excluding off-street parking and loading areas.

Health Officer: The words "Health Officer" shall mean the director of the Johnston County Health Department or his authorized representative.

Home Occupation: An incidental use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services. The term "home occupation" shall not be deemed to include a bed and breakfast home.

Kennel: An establishment for the keeping or breeding of dogs for profit.

Light Manufacturing and Processing: Product assembling or mixing, where previously processed components or manufactured parts produced off-site are fitted together into a complete machine or blended together to form a non-combustible and non-explosive product. Product packaging, including bottling, canning, packing, wrapping, and boxing of products assembled or manufactured off-site. The assembling or packaging shall not produce noise, vibration, hazardous waste materials, or particulate that create significant negative impacts to adjacent land uses. Odors produced on-site shall not negatively affect other businesses or properties in the area. Examples of assembling include but are not limited to the production of the following: clothes; furniture (where wood is milled off-site); pharmaceuticals; hardware; toys; mechanical components; electric or electronic components; small vehicle assembly; and computer software. Examples of packaging include facilities for bottling beverages, canning and wrapping foods, and boxing electronic components.

Lot: A single lot of record, or more than one (1) contiguous lot of record in the same ownership, which lot or lots of record are not divided by any street or public alley, and excluding any part of a lot or lots of record which, when severed from contiguous land in the same ownership, creates a non-conformity or a lot or parcel which does not meet the dimensional requirements of this ordinance.

Lot, corner: A lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed 135 degrees.

Lot coverage, maximum in percent: The maximum percent of the lot which may be covered with structures. All yard requirements must be met in addition to lot coverage requirements.

Lot depth: The average horizontal distance between the front lot line and the rear lot line. For "Flag Lots", the distance shall be measured from the point where the access strip joins the main portion of the lot.

Lot, Flag: A lot that has access to a public right-of-way by means of a narrow strip of land in accordance with section 304.3.

Lot of record: A lot which is part of a subdivision recorded in the Johnston County Office of the Register of Deeds, or a lot described by metes and bounds, the description of which has been so recorded.

Lot width: The horizontal distance between side lot lines measured at the required front setback.

Manufactured Home – Class A: A structure that:

- (A) consists of a single unit substantially assembled at the factory or of two (double-wide) or three (triple-wide) principal components totally assembled at the factory and joined together at the site; and
- (B) is designed so that the total structure (or in the case of a double-wide or triple-wide, each component thereof) can be transported on its own chassis; and
- (C) is over thirty-two (32) feet long and over eight (8) feet wide; and
- (D) is designed to be used as a dwelling and provides complete, independent living facilities for one (1) family, including permanent provisions for living, sleeping, eating, cooking, and sanitation; and
- (E) is actually being used, or is held ready for use, as a dwelling; and
- (F) is not permanently attached to a foundation. A structure that is otherwise defined herein as a manufactured home is permanently attached to its foundation if:
 - (1) the foundation was constructed in such a way or at such expense as to make it unlikely that the manufactured home placed upon it will later be removed; or
 - (2) if the manufactured home cannot be removed from the foundation without great expense or severe damage to the manufactured home.

Manufactured Home – Class B: A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a Class A manufactured home.

Massage and Body Work Therapy: A business that offers “massage and bodywork therapy”, which is legally defined as, “systems of activity applied to the soft tissues of the human body for therapeutic, educational or relaxation purposes” and who employ therapists licensed by the North Carolina Board of Massage and Body Work Therapy.

Mobile Home: See “*Manufactured Home definition*”

Modular or Prefabricated Construction: A dwelling unit constructed on-site in accordance with the North Carolina Residential Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a

permanent foundation.

Manufactured Home Park: Any plot of ground upon which two (2) or more manufactured homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.

Net Acreage, Acres, Land Area, Square Footage of Land Area: Land area with streets, right-of-ways, driveways which serve as access to more than two (2) units or uses, and major transmission line easements not included in its measurement.

Personal Services (Other): Establishments not defined elsewhere in this section which provide non-medically related services, including beauty and barber shops; clothing rental; dry cleaning pick-up stores; Laundromats (self-service laundries); shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.

Planned Unit Development: *is defined in Section 405.45.*

Principal Building, Use, or Structure: The main use of a lot or the building or structure in or on which the main use of the lot takes place.

Repair and Maintenance Shops (other): Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and heavy equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

Restaurant: An establishment whose primary purpose is serving meals to patrons.

Restaurant, Drive-in or Take-out: Any restaurant which makes provision for curbside service, outdoor service, or a drive-in window, or any restaurant more than ten percent (10%) of whose average daily customers take their food or beverages out of the restaurant.

Restaurant, indoor: Any restaurant except a drive-in or take-out restaurant.

Retail Sales Establishment, Small-scale: Establishments of 10,000 square feet or less gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, building materials and/or supplies, sales, or rental; and food sales or markets. Typical uses include sale of consumer goods or art or craft objects, flower shops, gift shops, and boutiques.

Retail Sales Establishment, Medium-scale: Establishments of more than 10,000 square feet, but less than 75,000 square feet of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets. Typical uses include sale of consumer goods or art or craft objects, flower shops, gift shops, and boutiques.

Retail Sales Establishment, Large Scale: A singular retail or wholesale user (including uses commonly called "Big box" stores) who occupies no less than 75,000 square feet of gross floor area, typically requires high parking to building area ratios, and has a regional sales market. Regional retail/wholesale sales can include but are not limited to: membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

Right-of-way, street: A strip of land, owned publicly or privately, which affords the principal means of access to abutting property.

Roof Line: The top edge of the roof or the top edge of the parapet, whichever forms the top line of the building silhouette, but not including penthouses or equipment structures.

Shopping Center: Two (2) or more retail and wholesale trade establishments planned, and constructed, as a single unit with off-street parking and loading facilities provided on the property.

Sign: Any outdoor letter, symbol, number, trademark, or other form of publicity or combination of these as well as the surface on which they are painted or to which they are attached, and any background material, coloring, shapes, or other trim shall be considered a sign, unless entirely enclosed by a fence or wall such that the above items and any structure or lighting attached to or accessory to them cannot be seen off the premises on which they are located. Works of fine art which in no way identify or advertise a product or business shall be excluded from this definition.

Signs Types:

Identification sign - A sign which contains any or all of the following: the name of the occupants, owner, or establishment, the type of establishment, the name of the franchise, the hours of operation, and house number, when located on the site of the establishment.

On-site advertising sign - A sign which contains information about an establishment or the products or services that it offers, other than that contained in an identification sign, when located on the same site as the establishment to which it refers.

Off-site advertising sign (billboard) - A sign which contains information about an establishment, business, commodity, activity, or service not conducted, sold, or offered upon the premises where such sign is located and not otherwise allowed in Table 402.5, and which is not specifically regulated in Table 402.5 as a directional sign to churches, meeting halls, civic clubs, or garage sales, or as a temporary sign.

Ground sign - A sign erected on a freestanding frame, mast, and/or pole and not attached to any building, fence, or wall.

Projecting sign - A sign which extends beyond and is attached to a building wall and may extend over a public right-of-way.

Roof sign - A sign attached to and extending upward from a roof of a structure.

Snipe sign - An off-premises sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.

Wall sign - A sign which is attached flat to the wall or facade of a building, or to a fence or wall.

Site Specific Vesting Plan: A site-specific vesting plan consists of a plan submitted to the Town in which the applicant requests vesting pursuant to G. S. 160D-108.1. The plan may be in

the form of a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, or any other land-use approval designation as may be utilized by the Town. A variance does not constitute a site-specific vesting plan.

Sleeping room: A room designated as sleeping or bedroom on the plans and permit application. See *2018 NC State Building Code: Residential Code §R202*.

Sleeping unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units. See *2018 NC State Building Code: Residential Code §R202*.

Special Use Permit: A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions. See *N.C.G.S. §160D-102(30)*.

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, fences, signs, and swimming pools.

Temporary Event: A use established for a fixed time period for short term events. Uses may include but are not limited to: religious tent revivals, seasonal farm/produce stands, holiday tree lots, carnivals and civic festivals.

Temporary Use: A use established for a fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations. Examples include but are not limited to temporary manufactured homes, construction office trailers, etc.

Townhouse: A dwelling unit constructed in a series or group of attached units with property lines separating such units.

Variance: A relaxation of the terms of this ordinance under the specific conditions set forth in Section 601.3 (B)(2).

Yard: An open space on the same lot with a principal structure or use unobstructed and unoccupied by any structure or portion thereof or parking or loading area, except as provided in this ordinance.

Yard, Front: a yard extending the full width of the lot and situated between the right-of-way line and the front line of the principal structure or use projected to the side lines of the lot. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lines would have met without such rounding. The foremost points of the side lot lines in the case of lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of Section 304.3 of this ordinance shall be measured at the place where the access strip joins the main portion of the lot. However, nothing may be placed in the access strip

that is not permitted by this ordinance to be placed in a front yard. Front and rear yard lines shall be parallel.

Yard, Rear: a yard extending the full width of the lot and situated between the rear line of the lot and the principal structure or use projected to the side lines of the lot.

Yard, Side: a yard extending along either side of a lot measured from front yard line to rear yard line and lying between the side lot line and the principal structure or use on the lot.

Yard/Garage Sale: a display and sale from a residence or residential property, of personal property which has been owned or previously used. The terms "Yard Sale or Garage Sale" does not include the mere incidental sale of one or two items of personal property when the sale is not part of a general sale of a number of items of personal property. Periodic non-profit fund raising activities are excluded from this definition.

Zoning Administrator: the official, or their designee, charged with the enforcement of this ordinance.

ARTICLE III - DISTRICT REGULATIONS

301 ESTABLISHMENT OF DISTRICTS

301.1 General Use Districts Established

The following general use districts are hereby established for the Town of Pine Level and its extra-territorial jurisdiction, and land within said areas shall be designated on the Official Zoning Map by the following symbols:

General Use District	Symbo I
<i>Residential Districts</i>	
Residential-Agricultural	RA
Residential Subdivision	RS
Single and Multi-Family	RH
Residential - Manufactured Home	RMH
<i>Commercial & Industrial Districts</i>	
Commercial	C
Highway Business	HB
Light Industrial	LI

301.2 Purpose Statements

District purpose statements in this article refer only to the general objectives for each zoning district.

302 RESIDENTIAL ZONING DISTRICT STANDARDS

302.1 RA – Residential-Agricultural District

- (A) The purpose of this district is to provide areas for low-density residential development and agriculture uses.
- (B) Dimensional Requirements

RA District USE	Minimum Lot Area			Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sqf)	Width (ft)	Depth (ft)	Front (ft)	Rear (ft)	Side (ft)		
Single-family dwelling or Class A manufactured Home on individual lot.	25,000	100	150	30	25	15	40%	35
Two-family dwelling or two townhouse units	25,000	100	150	30	25	15	40%	35

Multi-family dwelling								
Other building or use	25,000	100	150	30	25	15	40%	35

Notes: (1) Where there is no public water and/or sewer, lots must meet requirements of the Johnston County Health dept as well as the requirements of this ordinance.

302.2 RS – Residential Subdivision District

- (A) The purpose for this district is to provide for existing residential subdivisions and the establishment of new single-family dwelling subdivisions.
- (B) Dimensional Requirements:

RS District USE	Minimum Lot Area			Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sqf)	Width (ft)	Depth (ft)	Front (ft)	Rear (ft)	Side (ft)		
Single-family dwelling	15,000	100	150	30	25	10	40%	35
Manufactured home on individual lot								
Two-family dwelling or two townhouse units								
Multi-family dwelling								
Other building or use	25,000	100	150	30	25	10	40%	35

Notes: (1) Where there is no public water and/or sewer, lots must meet requirements of the Johnston County Health department as well as the requirements of this ordinance.

302.3 RH – Single and Multi-Family Residential District

- (A) The purpose of this district is to provide for a compatible mixture of single-family and multi-family dwellings and complexes.
- (B) Dimensional Requirements:

RH District USE	Minimum Lot Area			Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sqf)	Width (ft)	Depth (ft)	Front (ft)	Rear (ft)	Side (ft)		

Single-family dwelling	10,000	80	100	30	25	10	40%	35
Manufactured home on individual lot								
Two-family dwelling or two townhouse units	15,000	100	100	30	25	10	40%	35
Multi-family dwelling	(2)	100	100	30	25	10	40%	35
Other building or use	15,000	100	100	30	25	10	40%	35

Notes: (1) Where there is no public water and/or sewer, lots must meet requirements of the Johnston County Health dept as well as the requirements of this ordinance.

(2) 25,000 square feet for three units, plus 5,000 square feet for each additional unit.

302.4 RMH – Manufactured Home Residential District

- (A) The purpose of this district is to provide areas for the location of manufactured homes.
- (B) Dimensional Requirements:

RMH District USE	Minimum Lot Area			Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sqf)	Width (ft)	Depth (ft)	Front (ft)	Rear (ft)	Side (ft)		
Single-family dwelling	10,000	80	100	30	25	10	40%	35
Manufactured home on individual lot	10,000	80	100	30	25	10	40%	35
Two-family dwelling or two townhouse units	12,000	100	100	30	25	10	40%	35
Multi-family dwelling			100	30	25	10	40%	35
Other building or use	15,000	100	100	30	25	10	40%	35

Notes: (1) Where there is no public water and/or sewer, lots must meet requirements of the Johnston County Health Department as well as the requirements of this ordinance.

303 COMMERCIAL AND INDUSTRIAL ZONING DISTRICT STANDARDS

303.1 C – Commercial District

- (A) The purpose of this district is to provide areas for offices, services, and businesses within the central business district and older commercial areas of Pine Level.
- (B) Dimensional Requirements:

C District	Minimum Lot Area			Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sqf)	Width (ft)	Depth (ft)	Front (ft)	Rear (ft)	Side (ft)		
All uses	None	None	None	None	15	see (1)	N/A	50

Notes: (1) No side yard is required, however when a side yard is provided it must be a minimum of five feet wide.

303.2 HB – Highway Business District

- (A) The purpose of this district is primarily intended to accommodate retail service and distributive uses. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists.
- (B) Dimensional Requirements:

HB District	Minimum Lot Area			Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sqf)	Width (ft)	Depth (ft)	Front (ft)	Rear (ft)	Side (ft)		
All uses	25,000 (1)	100	150	30 (2)	25	10	40	50

Notes: (1) Minimum lot area is per site – more than one use can be grouped on a site or in a building.

(2) For lots fronting the US Highway 70 corridor, the front setback shall be fifty (50) feet.

303.3 LI – Light Industrial District.

- (A) The purpose of this district is to provide locations for manufacturing, wholesaling, and warehousing uses which can be conducted without harmful effects on the citizens of Pine Level.

(B) Dimensional Requirements:

LI District	Minimum Lot Area			Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sqf)	Width (ft)	Depth (ft)	Front (ft)	Rear (ft)	Side (ft)		
All uses	25,000	100	150	50	25	20	40	50

304 GENERAL REGULATIONS

304.1 Application of Regulations

The regulations set forth in this ordinance shall effect all land, every structure, and every use of land and/or structure and shall apply as follows:

- (A) No structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, or structurally altered except in compliance with the regulations of this ordinance for the district in which it is located.
- (B) No structure shall hereafter be erected or altered so as to exceed the height limit or density regulations of this ordinance for the district in which it is located.
- (C) No lot, even though it may consist of one (1) or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard, and lot coverage requirements and other requirements of this ordinance are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.
- (D) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another structure or use.
- (E) In any district, no more than one (1) principal building or use may be erected on a single lot of record, except as specifically permitted in other sections of this ordinance.

304.2 Visibility at Intersections

On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between the height of two and one-half (2-1/2) and ten (10) feet in a triangular area formed by a diagonal line between the two (2) points on the right-of-way lines, twenty (20) feet from where they intersect.

304.3 Street Frontage Required

Every principal building, structure, or use shall abut at least fifty (50) feet on a public street dedicated to and maintained by the Town of Pine Level, or the North Carolina Department of Transportation except as provided in this section below:

- (A) A private street constructed to the standards of the Town of Pine Level, or the North Carolina Department of Transportation, with a written agreement concerning maintenance of the street may be approved as part of a planned unit development.
- (B) Multi-family, townhouse and commercial complex developments shall have right of access though common areas or drives at least twenty-four feet in width leading to a publicly maintained street.
- (C) In the RA District, a recorded easement of at least thirty (30) feet to a publicly maintained street or highway. The easement may serve only one recorded lot or tract.

304.4 Complexes

Office centers, institutional, industrial, multi-family dwelling and similar complexes may have more than one (1) principal building on a single lot provided that the following requirements are met:

- (A) Uses in complexes shall be limited to those permitted within the zoning district in which the project is located.
- (B) The overall intensity of land use shall be no higher, and the standard of open space no lower, than that permitted in the district in which the project is located.
- (C) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located (except for Multi-Family Dwellings, Condominiums and Town Houses) in which case Section 405.27(B) shall apply.
- (D) The building heights shall not exceed the height limits permitted in the district in which the project is located.
- (E) The buildings shall be located so as to provide access for emergency vehicles.

304.5 Exceptions & Modifications

- (A) Existing Front Yard Setbacks. The minimum front yard requirements of this ordinance for dwellings shall not apply on any lot where the average front yard depth of existing dwellings is less than the minimum required. In such situations, the subject dwelling is not required to meet the district minimum front yard, but must meet either: the adjacent dwelling with the greatest front yard depth, or the average front yard of existing dwellings located wholly or in part within one hundred (100) feet on each side, whichever is greater.

When averaging to determine yard depth, only dwellings within the same block, in the same zoning district, and on the same side of the street may be used.

- (B) Corner Lots in any residential district shall have the side yard setbacks along the side street(s) increased by ten (10) feet.
- (C) The zoning administrator may approve structures not intended for human occupancy which exceed the height limitations of this ordinance such as: church spires, belfries, cupolas, domes, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, masts, aerials, and similar structures.
- (D) Uncovered stairs, landings, terraces, porches, balconies, and fire escapes may project into any yard, but such projection may not exceed three (3) feet and may not be closer than ten (10) feet to any lot line.
- (E) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed three (3) feet.
- (F) The requirements of this ordinance do not apply to roads, water, sewer, gas, electric, telephone, and similar utility lines except where specifically mentioned in this ordinance.
- (G) Lot width on lots which front on the turn-around circle of a cul-de-sac may be measured at the lot line formed by connecting the midpoint the side lot line of the shorter side with a point on the longer side lot line which is the same distance from the front lot line as the midpoint of the shorter side, or if both side lot lines are the same length, at the line connecting the midpoints of the side lot lines. All yard requirements must be met on such lots. If a lot has more than two (2) sides, the side lot lines to be used are the two (2) which connect with the front lot line.
- (H) Flag lots as defined in Section 203 may be permitted by the Board of Adjustment so long as the access to the public street is a minimum of fifty (50) wide and the lot meets the minimum building width for the zoning district at the front setback line. A flag lot shall serve only one single-family dwelling.

305 ZONING MAP

The boundaries of the districts are hereby established as shown upon the map accompanying this ordinance and made a part hereof, entitled, "Official Zoning Map, Town of Pine Level, North Carolina and Its Extra Territorial Jurisdiction". The zoning map and all the notations, references, and all amendments thereto, and other information shown thereon is hereby made a part of this ordinance and the same as if such information set forth on the map were all fully described and set out herein. The zoning map properly attested is on file in the office of the Zoning Administrator and is available for inspection by the public.

306 UNCERTAINTY AS TO BOUNDARIES

The boundaries of such districts as are shown upon the map adopted by this ordinance are hereby adopted and the provisions of this ordinance governing the use of land and buildings, the height of buildings, the sizes of yards about buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon said map.

If uncertainty exists as to the boundaries of the use districts shown on the official zoning map which is not resolved by the ordinance or ordinances establishing and amending such boundaries, the following rules shall apply.

- 306.1 Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- 306.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 306.3 Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following such jurisdictional boundaries.
- 306.4 Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main track or tracks.
- 306.5 Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such centerlines.
- 306.6 Boundaries indicated as flowing shorelines shall be construed to follow such shorelines, and if the shoreline is changed either naturally or as permitted by law, such a boundary shall be construed as moving with the actual shoreline.
- 306.7 Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted survey practices.
- 306.8 Boundaries indicated as parallel to or extensions of natural or man-made features indicated in subsections 306.1 through 306.7 above shall be so construed.
- 306.9 Distances not specifically indicated shall be determined by the scale of the official zoning map.

Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Article VI of this ordinance.

307 AMENDMENTS TO THE OFFICIAL MAP

Amendments to the official zoning map shall be adopted by ordinance as provided in Article VI. Promptly after the adoption or amendment, the Zoning Administrator shall alter or cause to be altered, the official zoning map to indicate the amendment. The Town Clerk shall enter in writing upon the face of the map a certification indicating the alteration and citing the date of

adoption and the effective date of the amendment, as well as the book and page of record of the ordinance amending the map.

308 TABLE OF PERMITTED USES

Uses allowed in the districts named in this ordinance shall be in accordance with Table 308.1 in which “**P**” signifies that the use is permitted as of right, “**S**” indicates that the use is a special use which requires approval of the Pine Level Board of Commissioners, “**D**” indicates that the use is permitted as of right, but subject to development standards approved by the zoning administrator, and a blank indicates that the use is NOT permitted in that zoning district.

Table 308.1

USE	Zoning District						
	RA	RS	RH	RMH	C	HB	LI
<i>Agricultural</i>							
Farming (Row Crops)	P	P	P	P	P	P	P
Farming (Livestock)	D						
Commercial plant nurseries and greenhouses	P				P	P	P
Beehives	S	S	S	S			
<i>Residential</i>							
Dwelling, Single-family-detached	D	D	D	D			
Dwelling, Two-family	S		S	D			
Dwellings, Multi-family and complexes			S				
Dwellings, Townhouse			S				
Modular Home	D	D	D	D			
Manufactured Home, Class A on individual lots	D			D			
Manufactured Home, Class B on individual lots	S			D			
Manufactured Home Park				S			
Planned Unit Development	S	S	S	S			
<i>Education, Government & Institutional</i>							
Cemeteries	P		P	P			
Church or religious institutions	P	P	P	P		P	
Community Center	P	S	S	S			
Day Care Centers, Child or Adult	S	S	S	S	S	S	
Day Care, Home	D	D	D	D			
Family Care Home	D	D	D	D			
Fraternal organizations not open to the public	S	S	S	S	S	S	
Group Home			S				
Libraries	S	S	S	S	P	P	
Museums	S		S	S	P	P	
Nursing homes, clinics, hospitals, except animal hospitals			S	S	S	S	
Public educational institutions and	P	P	P	P			

USE	Zoning District						
	RA	RS	RH	RMH	C	HB	LI
private schools having a curriculum the same as ordinarily given in public schools							
Public buildings; uses and utilities	S	S	S	S	S	P	P
Recreation							
Amusement Parks	S					S	
Amusement, Commercial, Indoor	S				S	S	
Amusement, Commercial, Outdoor	S					S	P
Assembly Halls & Arenas	S				P	P	P
Campgrounds	S					S	
Golf Courses (public) and driving range, excluding carpet or miniature	S	S	S				
Tennis & Swim Clubs	S	S	S	S			
Parks, Public	P	P	P	P	P		
Playgrounds	P	P	P	P			
Recreational Vehicle Park	S					P	P
Riding Stables	S						
Retail, Wholesale & Services							
Automobile rental & leasing						P	P
Automobile repair services					P	P	P
Automobile Sales						P	
Automobile service stations					P	P	P
Automobile storage yard						S	P
Bed & Breakfast Establishment	S	S	S				
Building Contractors, general						P	P
Building Contractors, heavy							P
Building Materials supply						P	P
Car washes					P	P	P
Club, Private					S	S	
Convenience Store w/Gasoline sales					P	P	P
Convenience Store w/o Gasoline sales					P	P	P
Farmers Market					P	P	P
Farmers Supply Store						P	P
Financial Institutions					P	P	P
Flea Market						S	S
Fuel dealer							P
Fuels, bulk storage							P
Heavy equipment sales, repair, leasing & storage							P
Hotels and motels					P	P	P
Kennels	S					S	
Offices-businesses, professional and public					P	P	P
Parking lot or deck					P	P	P
Personal Services					P	P	P
Repair & maintenance shops (other)					P	P	P

USE	Zoning District						
	RA	RS	RH	RMH	C	HB	LI
Restaurant with drive-through					P	P	P
Restaurant without drive-through					P	P	P
Retail Sales Establishment – Small Scale & Medium Scale					P	P	P
Retail Sales Establishment – Large Scale						P	P
Salvage Yard							S
Shopping Centers					D	D	
Veterinary Services					P	P	P
<i>Manufacturing, Warehousing, Transportation & Utility Uses</i>							
Light Manufacturing and Processing							P
Freight Terminal							S
Telecommunications Tower						S	S
Utility equipment & storage yards							D
Utility lines & related equipment	P	P	P	P	P	P	P
Utility substations	D	D	D	D	D	D	D
Warehousing – (except self-storage)							P
Warehousing – Self-Storage						P	P
Wind Farms/Solar Farms(not allowed in any district as per Town Board)							
<i>Accessory, Temporary, or Other Uses</i>							
Accessory residences for watchmen or caretakers						D	P
Adult Establishments							S
Automatic Teller Machine					P	P	P
Cafeterias and snack bars within an industrial use.							P
Domestic Animal Pens	D	D	D	D			
Electronic game machines and pinball machines – Accessory					D	D	
Home Occupations as regulated in Section 405.35	D	D	D	D			
Outdoor Display of Merchandise					D	D	D
Outdoor storage						D	D
Temporary Uses	S	S	S	S	S	S	S
Temporary Events	D	D	D	D	D	D	D

ARTICLE IV - DEVELOPMENT STANDARDS

401 PARKING AND LOADING REQUIREMENTS

401.1 Off-Street Parking Requirements

There shall be provided at the time of the erection of any building or the establishment of any use or at the time any principal building or use is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, floor, storage, or sales area; or before conversion from one type of use or occupancy to another, permanent off-street parking in the amount specified by this section. Such parking space may be provided in a parking garage or properly graded open space.

The following regulations concerning required parking shall apply:

- (A) Each zoning permit application filed with the zoning administrator shall include information as to the location and dimensions of off-street parking space and means of ingress and egress to such space. This information shall be in sufficient detail to determine whether or not the requirements of this section are met. No Certificate of Occupancy shall be issued until the parking requirements and regulations are fully met.
- (B) The required parking space for any number of separate uses may be combined in one (1) lot but the required space assigned to one (1) use may not be assigned to another use, except that one-half (1/2) of the parking space requirement for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.
- (C) If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred (400) feet of the main entrance to such principal use.
- (D) Parking space sizes shall be governed by the following dimensions:

Parallel stall	20' x 10.0'
Angle stall	20' x 10.0'
90 stall	20' x 10.0'

- (E) Minimum aisle widths shall be:

Parking Angle	Aisle Width in Feet	
	One Way Traffic	Two-Way Traffic
0°	12	24 (0° only)
30°	11	N/A
45°	13	N/A
60°	18	N/A
90°	24	24

- (F) A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single and two-family residential and shall be at least twenty-four (24) feet wide.
- (G) When off-street parking for more than ten (10) vehicles is provided, the following regulations shall apply in addition to all other regulations in this Article.
- (1) Surfacing: All such parking lots shall be graded and surfaced with blacktop or concrete, or other such surfacing material to ensure a dustless surface condition.
 - (2) Markings: Each parking stall shall be marked off and maintained so as to be distinguishable.
 - (3) Lighting: Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
 - (4) Yards: All such parking lots shall observe a minimum front yard of not less than eight feet (8) feet and a side yard on a corner lot of not less than eight (8) feet. Parking lots in residential-agricultural and residential districts shall have front yards of not less than fifteen (15) feet and side and rear yards of not less than five (5) feet. Yard surrounding parking lots shall be planted and maintained in accordance with the landscaping requirements of Section 403.5 of this ordinance.
 - (5) Curbs or Bumpers: The required yards shall be set off from parking areas by either continuous curb or one (1) non-continuous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five (5) inches or more than two (2) feet high.
 - (6) Drainage: Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Zoning Administrator may exempt the developer from this requirement, provided that adequate provision is made for drainage.
 - (7) Separation of Bumper and Walkways: in the event any parking stall abuts upon a walkway, there shall be a space of three and one-half (3 ½) feet between the wheel bumper or curb and the edge of the walkway.
 - (8) Entrances and Exits: On all corner lots, all vehicular openings shall be located at least twenty (20) feet from the point of intersection of established street right-of-way lines. No entrance and exit, whether or not on a corner lot, shall exceed thirty (30) feet in width at the property line or forty (40) feet in width at the curb line. There shall be a minimum distance between driveways of twenty-five (25) feet measured along the curb line unless such driveways are less than five (5) feet apart.

- (9) Internal Circulation: Sufficient area shall be provided within the property lines of the parking lot, exclusive of required yards, so that all vehicles may enter and leave the lot in a forward motion.
- (H) Exceptions
 - (1) The Zoning Administrator may withhold a permit or Certificate of Occupancy if a parking layout not specifically prohibited by this Section would be likely to cause avoidable safety or traffic congestion problems until modification is made. The applicant may appeal the Zoning Administrator's decision to the Board of Adjustment under the normal procedure for an appeal.
 - (2) If a peculiar characteristic of an establishment makes the requirements in this Section clearly unrealistic, the Board of Adjustment may grant the applicant a parking modification.
 - (3) In the commercial district, the Zoning Administrator may allow a new use to be established in an existing building even if all parking requirements of this Article cannot be met for the new use, provided that as much off-street parking as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.
- (I) The minimum number of required off-street parking spaces shall be calculated as provided in Table 401.1. In the case of a building or use not specifically listed in Table 401.1, the number of off-street spaces shall be the same as for a similar use or inclusive category which is listed. Where there is more than one (1) use in a single structure, or on a single tract, or two (2) or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses, except for shopping centers which are expressly provided for.
- (J) Table 401.1 specifies the minimum number of off-street parking spaces which shall be provided for each use

Table 401.1 Off-Street Parking Requirements

Use	Number of Required Off-Street Parking Spaces
Residential Uses	
Dwellings, single and two-family	2 per dwelling unit
Dwellings, multi-family	2 spaces for each dwelling unit, plus 1 visitor space for each 4 dwelling units
Townhouses	2 spaces for each dwelling unit, plus 1 visitor space for each 4 dwelling units
Group housing, such as boarding houses, dormitories, and similar establishments	1.2 for each bedroom
Manufactured homes on individual lots	2 per manufactured home
Manufactured home parks	2 spaces for each manufactured home, plus 1 visitor parking space for each 4 manufactured homes
Office & Institutional Uses	
Financial Institutions	1 for each 150 square feet of gross floor area or fraction thereof, plus safe facilities to accommodate passengers waiting in line for drive-in windows and bank machines, if any
Hospitals	1 space for each 150 square feet of gross floor area or fraction thereof
Libraries	1 space for each 200 square feet for use by the public or fraction thereof
Museums and art galleries	1 space for each 800 square feet of gross floor area or fraction thereof
Nursing homes, family care homes, and similar institutions	1 space per 4 residents, plus 1 space per employee
Offices	
Doctor or dentist	6 for each doctor or dentist plus 1 for each other employee
Other	1 for each 300 square feet of gross floor area or fraction thereof

Use	Number of Required Off-Street Parking Spaces
Places of Assembly	
Including clubs, lodges, churches, funeral parlors, auditoriums, gymnasiums, amusement parks, and similar places	1 for each three seats, plus 1 for each 100 square feet of floor area used for assembly, but not containing fixed seats, or fraction thereof
Schools and Colleges	
Day nurseries, kindergartens, elementary, junior highs	2 per classroom floor area or fraction thereof, plus 1 for each administrative office, plus auditorium/gymnasium parking requirement if applicable
Senior highs, and colleges, trade, vocational with dormitories	10 per classroom, or 1 per 3 seats in auditorium or principal place of assembly, whichever is greater
Colleges, trade, vocational without dormitories	10 per classroom
Commercial Uses	
Amusement, Commercial Indoor	1 per 200 square feet of activity area
Amusement, Commercial Outdoor	1 per 400 square feet of lot area accessible to the public
Campground:	
Tent	1 for each campsite plus office parking requirement
Recreational Vehicle	1 for each campsite plus office parking requirement
Car Wash	5 per wash lane
Flea Markets(amended 2-11-2016)	See pg. 68 Section 407.15
Golf course (not including putting greens accessory to multi-family dwellings or hotels or motels)	4 per hole
Hotel - Motel	1.2 for each guest room plus requirement for restaurant or other facilities if provided
Restaurant:	
Drive-in or take-out	Minimum of 15 spaces, plus 1 additional for each 50 square feet of gross floor area or fraction thereof

Use	Number of Required Off-Street Parking Spaces
Other	1.2 for each 100 square feet of gross floor area or fraction thereof
Service stations	2 for each gas pump, plus 3 for each grease rack or similar facility
Shopping centers (in lieu of individual store parking requirements)	5.5 per 1,000 square feet of gross leasable area or fraction thereof
Low generator retail and service establishments such a furniture, appliance, household equipment, carpet and hardware stores, repair shops including shoe repair, contractors' showrooms, drapery, paint and wallpaper, upholstery, interior decorator, motor vehicles sales, plant nurseries	1 for each 500 square feet of gross floor area or fraction thereof, including any outdoor sales area
All other commercial uses such as retail stores, wholesale outlet stores, department stores, discount stores, drugstores, coin-operated laundries, variety stores	1 for each 200 square feet of gross floor area or fraction thereof, including any outdoor sales area
Industrial Uses	
Industrial and research uses, warehousing, and very low customer volume wholesaling operations	1 for each employee on the largest shift

401.2 Off-Street Loading Requirements

- (A) Every building or structure used for business, trade, industry, or office and institutional purposes, shall provide loading space as indicated in this section. Each loading space shall be no less than fifteen (15) feet in width, and thirty (30) feet in depth. Each space shall also be no less than fifteen (15) feet in height if such space is covered. It shall have access driveways to public streets or alleys which driveways shall be at least twenty-four (24) feet wide and with adequate turning radii for the delivery vehicles customarily associated with the particular use. If there is not more than one (1) delivery and pickup during the hours when a retail trade, office, or institutional establishment is open to patrons, such space maybe combined with the existing parking space on the premises. Loading space shall be provided in accordance with the following schedule:
 - (1) Retail Business – 1 space for each 40,000 square feet of gross floor area or fraction thereof.

- (2) Wholesale Trade and Industry – 1 space for each 10,000 square feet of gross floor space or fraction thereof.
 - (3) Office and Institutional Uses Including Hotels and Motels – 1 space for each 100,000 square feet of gross floor area or fraction thereof.
 - (4) As well as meeting the requirements of 401.2(A)(3), elementary, junior high, high schools, kindergartens, nurseries, and day care centers shall also provide a safe place off the street for the loading and unloading of children from automobiles and buses.
- (B) Exceptions
- (1) If a peculiar characteristic of an establishment makes the requirements in this section clearly unrealistic, the Board of Adjustment may grant the applicant a modification of the loading requirements in regard to that particular establishment.
 - (2) The Zoning Administrator may allow a new use to be established in an existing building even if all the loading requirements of this section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use and traffic or safety hazards will not be created.

402 SIGNS

No sign or sign structure may be erected, posted, hung, painted, rehung, repainted, repaired, replaced, changed, or maintained in any district except in compliance with this section.

402.1 General Sign Regulations

- (A) No sign or sign structure shall be erected or constructed to interfere with vision clearance as defined in Section 304.2.
- (B) No ground sign structure may be placed in the right-of-way.
- (C) Individual stores in a shopping center may not have separate ground sign structures. The shopping center as a whole may display signs in accordance with this section.
- (D) Signs and sign structures shall meet all requirements of the North Carolina State Building Code.
- (E) Signs and sign structures shall be maintained at all times in a state of proper repair, with all braces, bolts, clips, guys, anchors, supporting frames, and fastening free from deterioration, insect infestation, rot, rust, or loosening. All signs shall be kept neatly finished, with lettering intact, and if of a type which requires painting, free from visible peeling or chipping.
- (F) Obsolete signs and their supporting structures shall be removed within ninety (90) days after they have been made obsolete by reason of the activity,

business, product, or usage which the sign identifies or advertises being abandoned at the location to which the sign refers. This provision does not refer to billboards, until the commercial use of the billboard for rent has ceased. An extension of the ninety (90) day time limit for removal may be granted by the Zoning Administrator for reasonable cause.

- (G) Illuminated signs shall be limited to those lighted from behind to silhouette letters and internally illuminated and spotlighted signs. All illuminated and spotlighted signs shall be placed so as to prevent the light rays, illumination, or glare from being cast directly on any building or on traffic.
- (H) Strings of light bulbs used in connection with commercial premises for commercial purposes shall be limited to white, yellow, or bug repellent bulbs and shall not cause glare on traffic or adjoining premises.
- (I) Sign Area Computation. The area of the smallest regular polygon composed of eight (8) lines or less, circle, half-circle, ellipse, or combination thereof, which will encompass the entire sign, excluding the base or apron, supports, or other structural members unless some part of the message appears on them, in which case they shall be included. Where symbols, letters, or numbers are attached separately to a structure, including a sign structure or to separate surfaces, the area between the separate items or letters, whether open or solid, shall be computed as part of the sign area. The total sign area for a double-faced sign shall be measured on the largest face of the sign. Where three-dimensional figures are used as signs, the largest dimensions of such figure shall be projected on a vertical plane and measured in the standard manner.
- (J) Sign Height Computation. The vertical distance measured from the adjacent street grade or from the ground on which it rests, whichever allows the sign the greatest height, to the top of the sign.

402.2 Prohibited Signs.

The following types of signs are expressly prohibited:

- (A) Signs with moving, revolving, or rotating parts, or any sign which moves or give the illusion of movement, except for time and temperature units and traditional barber poles, shall be prohibited in all districts.
- (B) Signs with lights or illumination which flash, move, rotate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except for time and temperature units.
- (C) Signs which obstruct the view of or could be confused with any authorized traffic sign, signal, or device or make use of the words "stop", "look", "danger" or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.
- (D) Signs which obstruct openings required to be left uncovered or unobstructed by building codes, the housing code, or other laws relating to buildings.

- (E) Snipe signs. (see definition section 203)

402.3 Off-Site Advertising Signs

Off-site advertising signs (billboards) shall be permitted only as a special use in the C, HB, and LI districts. The general conditions for special uses in Section 606.1 of this ordinance are not applicable to off-site advertising signs, rather the conditions of this section shall be used by the Board of Commissioners in hearing applications for off-site advertising signs:

- (A) The property on which the sign is to be located must be adjacent to an interstate or federal primary highway.
- (B) The sign must be located within six hundred sixty (660) feet of the edge of the right-of-way of such highway.
- (C) The sign shall comply with all regulations of the North Carolina Department of Transportation and with the North Carolina General Statutes.
- (D) No two (2) such structures shall be placed less than one thousand (1,000) feet apart.
- (E) The sign will be compatible with the general neighborhood in which it is located and will not have a detrimental effect on adjoining properties.

402.4 Nonconforming Signs

Nonconforming signs, when removed for other than normal maintenance, may not be erected again, nor may any such sign be replaced with another nonconforming sign.

402.5 Permitted Signs

The following sign types Signs shall be permitted in accordance with Table 402.5.

- (A) Table 402.5

Sign Type	Dimensions		District Permitted	Permit Required	Special Requirements
	Maximum Area in Sq. ft.	Maximum Height in Ft.			
Advertising, off-site (billboards)	See Section 402.3		LI, HB	Special Use	See section 402.3
Agricultural, advertising products produced on premises	32	8	RA, LI	Yes	
Awning, silk-screened or sewn on front of awning	NA	NA	C, HB, LI	Yes	

Sign Type	Dimensions		District Permitted	Permit Required	Special Requirements
	Maximum Area in Sq. ft.	Maximum Height in Ft.			
Bulletin Board, church or public	20	8	All districts	Yes	
Canopy signs (may also be placed on non-raising marquees)	4		C, HB, LI	Yes	402.5 (B)(1)
Construction site placards	32	12	All districts	No	402.5 (B)(2)
Directional signs containing no advertising matter:				No	
Traffic, safety, utility warning, Pedestrian, public			All districts	No	
Development Identification Signs	32	8	All districts	Yes	402.5(B)(3)
No Trespassing	4		All districts	No	
Off-site directional to churches, meeting halls, civic clubs	12	6	All districts	No	
Temporary directional to garage sales and similar events in residential area	4		All districts	No	402.5(B)(4)
Flags, Emblems, Insignia			All districts	No	402.5(B)(5)
Ground Signs	150	25	LI	Yes	402.5(B)(6)
	40	12	C, HB	Yes	402.5(B)(6)
Home Occupation <i>see Professional Announcement</i>					
House numbers	4		All districts	No	402.5(B)(7)
Identification signs (attached)			All districts	No	402.5(B)(8)
Political signs	4		All districts	No	402.5(B)(9)
Portable signs,	32	10	C, HB, LI	Yes	402.5(B)(10)
Professional or announcement signs	20	4	All districts	No	402.5(B)(11)
Projecting signs	3		C, HB	Yes	402.5(B)(12)
Real estate signs	6	4	RA, RS, RH, RMH, C	No	402.5(B)(13)
	32	8	HB, LI	No	402.5(B)(13)
Religious symbols at formal places of worship			All districts	No	
Roof signs – <i>see wall</i>					

Sign Type	Dimensions		District Permitted	Permit Required	Special Requirements
	Maximum Area in Sq. ft.	Maximum Height in Ft.			
<i>signs</i>					
Pennants, banners & streamers			C, HB, LI	No	402.5(B)(14)
Temporary signs relating to farm auctions, agricultural production sales, annual charitable civic or fraternal events, excluding portable commercial signs	20 off-site 32 on-site		All districts	No	402.5(B)(15)
Vending machine signs			Permitted use in all districts	No	402.5(B)(16)
Wall or roof signs	1.25 sq. ft. of sign area per running foot of building frontage		C, HB, LI	Yes	402.5(B)(17)
Window signs			C, HB, LI	No	

(B) Special Sign Requirements

- (1) Canopy Signs
May be used for identification only. 1 per establishment. Bottom of sign must be a minimum of 7 ft. above sidewalk level. Minimum height may be greater over a public right-of-way if required by Town regulations.
- (2) Construction Placards.
Must be removed when construction has been completed.
- (3) Development Entrance Signs
Includes entrance or monument type signs to subdivisions, neighborhoods, public, commercial, industrial, institutional establishments and manufactured home parks. No more than 2 per entrance allowed. Minimum height requirement includes sign and any support pillars.
- (4) Temporary Event Directional Signs
Includes garage sales in residential districts. Sign(s) must be posted no more than 24 hours before sale and removed within 24 hours after sale. Portable commercial signs are prohibited for this use.
- (5) Flags, Pennant, or Insignia

The flag, pennant or insignia of any nation or organization of nations, state, country, city, religious, civic, or fraternal organizational or educational institution, is allowed without a permit when not used in connection with a commercial promotion, or as an advertising device or as an integral part of another sign.

In RA, RS, RH, and RMH districts, wall and projecting insignia may not exceed 10 sq. ft. in area nor may they project more than 9 feet from wall at farthest point. In business and industrial districts, insignia may be placed on signs permitted in those districts. In any district, flags or pennants shall not exceed fifteen (15) square feet or, if on a pole, one-fourth height of pole, whichever gives the flag the greater permitted area.

- (6) Ground Signs
 - a) In the LI district, no more than 1 sign per public street frontage containing entrance to use. May be used only for identification or on-site advertising.
 - b) Must be thirty (30) feet from any other ground sign.
 - c) Must meet vision clearance requirements of section 304.2.
- (7) House Numbers
May contain no advertising matter.
- (8) Identification Signs (attached)
Includes memorial signs, tablets, and name of building and date of construction. Sign must be cut into a masonry surface or cast of metal and affixed flat against a surface.
- (9) Political Signs
All political signs may be set out no sooner than sixty (60) days prior to the election date (primary or general election) and must be removed within seven (7) days after the election to which they pertain. Political signs must be removed after primary elections that are generally conducted a number of months before the general election.
- (10) Portable Signs
A non-renewable permit from the Zoning Administrator is required. Signs shall be permitted for no more than ten days. No more than one sign per establishment per street frontage shall be allowed. The same establishment may not have a temporary sign(s) again for 30 days after removal of such sign(s). The sign(s) shall not have colored or flashing lights which cause glare on traffic or adjacent properties, and shall not be located on the public right-of-way nor obstruct vision clearance as indicated in 402.1(A).
- (11) Professional Announcement
This category includes signs for home occupations. No more than one sign per establishment shall be allowed. Signs for home occupations in all residential districts shall not exceed ten (10) square feet.

- (12) Projecting Signs
The sign may extend no more than 3 feet from the wall at the farthest point. 1 such sign is allowed per face on the street, or 2 per establishment, whichever is less. Such sign may be hung on corner of building but shall count against the maximum allowed above.
- (13) Real Estate Signs:
Signs must be removed ten (10) days after property is sold.
- (14) Pennants, Banners & Streamers:
Allowed as a temporary use only for the opening of a new business. May remain for no more than 4 weeks. Portable commercial signs are prohibited for this use.
- (15) Temporary Signs (Auctions, Ag produce Sales, Charitable events)
Off-site: No more than 1 sign per lot.
On-site: No more than 3 signs per lot. Sign may remain for no more than 45 days total
- (16) Vending Machine Signs
Includes signs painted or mounted on a vending machine related to the products on the machine; bank machine; book depository signs which instruct customers or patrons; signs attached to gasoline fuel pumps, oil and tire racks.
- (17) Wall Signs
- a) Wall signs must be mounted on areas of wall free of windows, doors, or other architectural detail. May not interrupt or cover major architectural features. Only one wall, roof, or projecting sign per establishment per street frontage is permitted other than those specifically mentioned elsewhere in this table.
 - b) Wall signs may be used only for identification or on-site advertising and at least 80% of sign face shall be for identification
 - c) Signs shall not project over the roof line of the building to which they are attached.
- (18) Stacking of Signs
Stacking of signs on standards or poles shall be prohibited.

403 LANDSCAPING ORDINANCE

403.1 Purpose and scope

This article is intended to establish minimum standards for the design of landscapes for uses other than single family and two-family residential so as to improve the community aesthetically, economically and environmentally.

403.2 Definitions

The following definitions shall apply to the regulation and control of landscaping within this article:

Caliper: A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and twelve inches above the ground for larger sizes.

Critical Root Zone (CRZ): A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

DBH: Diameter-at-breast-height is the tree trunk diameter measured in inches at a height of 4.5 feet above the ground.

Deciduous: Those plants that annually lose their leaves.

Drip Line: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Evergreen: Those plants that retain foliage throughout the year.

Evergreen Screen: A plant growing to over 20 feet in height at maturity that retains foliage year round that is planted to provide a dense vegetative screen for purposes of visual mitigation between zoning districts.

Ground Cover: A prostrate plant growing less than 2 feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides.

Landscaping: The process or product of site development including grading, installation of plant materials, and seeding of turf or ground cover.

Parking Lot Plantings: Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

Planting Area: The area prepared for the purpose of accommodating the planting of trees, shrubs, and groundcovers.

Planting Yard: The required installation of landscaping and screening materials between zoning districts and sometimes individual uses.

Type A Planting Yard: A planting strip having minimum width of 8 feet which is intended to separate uses, provide vegetation in densely developed areas, and enhance the appearance of individual properties.

Type B Planting Yard: A medium density screen having a minimum width of 15 feet which is intended to partially block visual contact between zoning classifications and create spatial separation.

Type C Planting Yard: A medium density screen having a minimum width of 20 feet which is intended to substantially block visual contact between zoning classifications and create spatial separation. A Type C Planting Yard reduces lighting and noise that would otherwise intrude upon adjacent zoning classifications.

Type D Planting Yard: A very high-density screen having a minimum width of 30 feet which is intended to substantially block visual contact between zoning classifications and create spatial separation. A Type D Planting Yard reduces lighting and noise that would otherwise intrude upon adjacent zoning classification.

Shrub, Large: An upright plant growing 10 feet to 20 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Medium: A plant growing 5 feet to 10 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Small: A plant growing to less than 5 feet in height at maturity that is planted for ornamental purposes.

Street Tree: A tree planted along the street behind the right-of-way.

Street Yard: A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of the development by providing a pleasing view from the road.

Tree, Ornamental: A small to medium tree, growing 15 feet to 40 feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

Tree, Shade: A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

403.3 Applicability

The provisions of this ordinance shall apply to all uses other than single family and two-family residential.

403.4 Planting Yards

Planting Yards are intended to separate different land uses and zoning districts from each other and are intended to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs and unsightly buildings or parking areas. The planting yard types are determined by four different levels based on zoning districts. The zoning districts have been divided into the following four levels:

LEVEL 1: RESIDENTIAL – SINGLE FAMILY

- RA Residential-Agricultural – excluding duplex
- RS Single Family Residential – excluding duplex
- RH Medium Density Single Family – excluding duplex

LEVEL 2: RESIDENTIAL – DUPLEX & MULTI-FAMILY

- RA Residential-Agricultural – duplex only
- RH Single Family Residential – duplex only
- RMH Residential - Manufactured Home

LEVEL 3: BUSINESS

- C Commercial District
- HB Highway Business

LEVEL 4: INDOOR MANUFACTURING

- LI Light Industrial District

In the case of a group development, the outer boundaries shall be landscaped according to the requirements of Table 403.22 and Table 403.3. The interior boundaries abutting out parcels within a group development must comply with the requirements of Table 403.2 and Table 403.3 at the time of their development.

TABLE 403.1 PLANTING YARD CHART

Table 403.1 shows how the four different levels of zoning classification relate to one another to determine the type of Planting yard that is required.

		Least Intensive	▶	▶	Most Intensive
		<i>Adjacent Zoning District Level</i>			
Least Intensive	Proposed Level	1	2	3	4
▼	1	*	*	*	*
▼	2	C	A**	A	A
▼	3	C	B	A**	A
Most Intensive	4	C	C	C	A**
* = No Planting Yard Requirement					
** = Where like zoning abuts one another, the planting yard requirement for the Type A Yard shall be a minimum average width of 8 feet, but at no time shall the width be less than four (4) feet.					

TABLE 403.2

PLANTING YARD LANDSCAPING					
Yard Type	Minimum Width (in feet)	Shade Trees	Ornamental Trees	Shrubs	Required Points per Linear Foot
A	8	optional	1/50'	optional	0.4
B	15	1/75'	1/100'	optional	0.7
C	20	1/50'	1/75'	optional	0.9
D	30	1/50'	1/50'	optional	1.0

Table 2 shows the planting requirements of the Planting Yard Types A-D and Street Yards. Each Planting Yard has a specified width, type of plant material and quantity of plant material that is required. The width and density of the Planting Yard increases as the difference in zoning classifications increase.

POINTS FOR PLANTING YARDS	
	POINTS
SHADE TREE	12
ORNAMENTAL TREE	6
LARGE SHRUB	3
MEDIUM SHRUB	2
SMALL SHRUB	1

- (A) A wall or fence, a minimum of six (6) feet in height (constructed of masonry or pressure treated lumber) or densely planted vegetation a minimum of six (6) feet in height that would provide a complete visual separation within three (3) years of planting, may be used to reduce both the minimum width of the Planting Yards and the corresponding number of points per linear foot by 20%.
- (B) In Type B Planting Yards, ornamental trees may be substituted for shade trees at the rate of two (2) ornamental trees for each required shade tree.
- (C) All trees in Street Yards shall be planted no closer than four (4) feet from any public right-of-way.
- (D) For the purpose of this section, building setbacks (as listed in Article III) shall supersede Planting Yard landscaping requirements.

TABLE 403.3

STREET YARD LANDSCAPING					
	Minimum Width	Trees			Shrubs
		Shade	or	Ornamental	
Requirements	8'	1/35'	or	1/25'	Optional

TABLE 403.4 Planting Yards

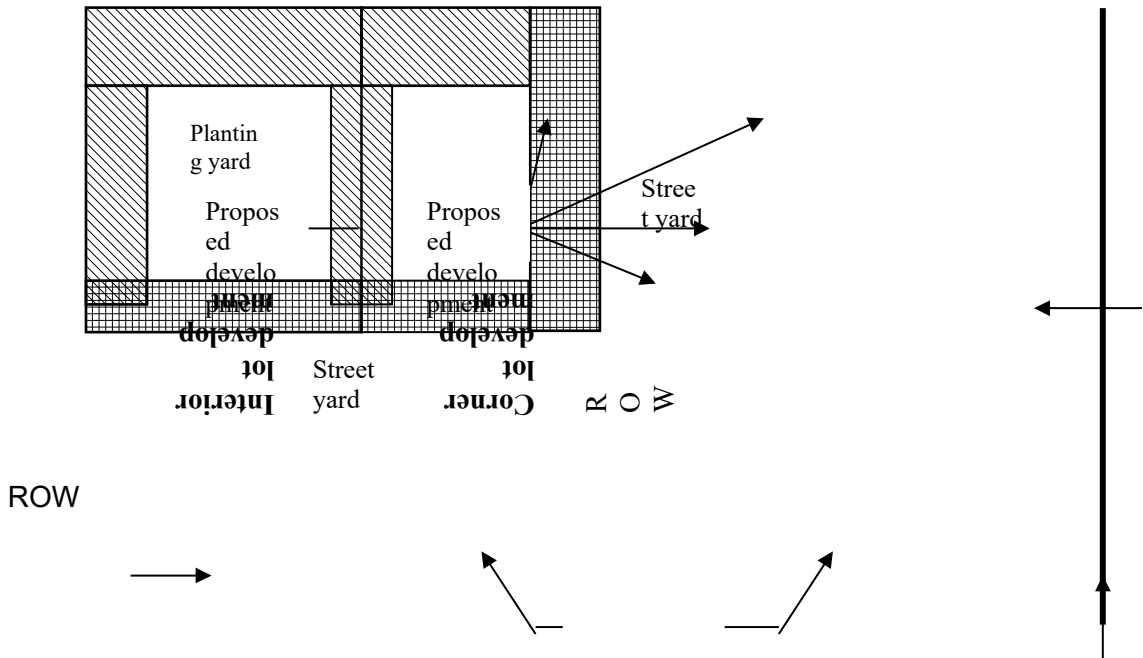
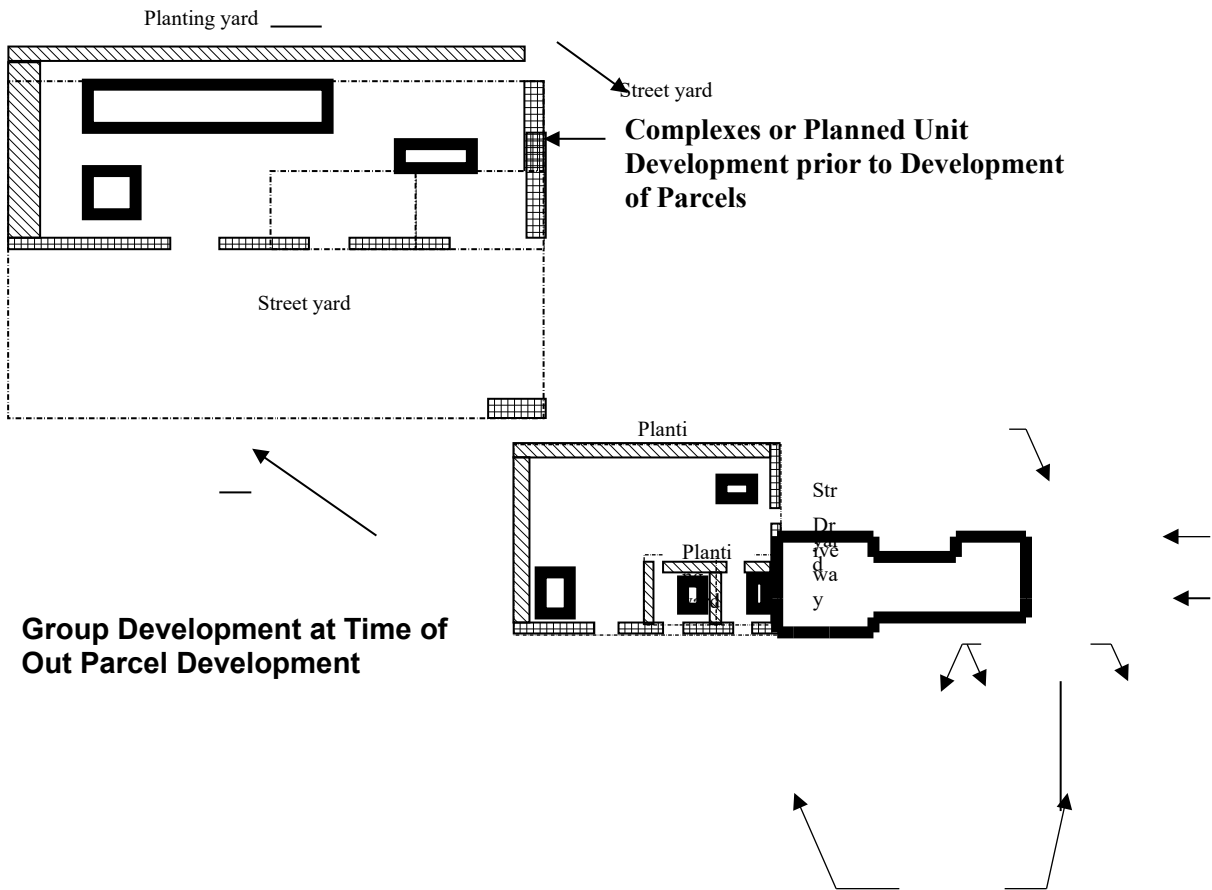


TABLE 403.5 Complexes or Planned Unit Developments



403.5 Landscaping and Design Standards for Street Yards

A Street Yard consists of a Planting Area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.

- (A) Street Yards shall be a minimum of eight (8) feet wide
- (B) Street Yards shall contain one shade tree per thirty-five (35) linear feet, or one ornamental tree per twenty-five (25) linear feet, except in the case of a conflict with utility lines. These trees shall be generally equally distributed along the street frontage, but they are not required to be at absolute equal intervals. This will allow for some flexibility in design while discouraging long intervals without trees. Shrubbery may be planted in clusters where trees are not practical; however, the requirements of Table 3 shall be met.
- (C) Parking, merchandise display and off-street loading are prohibited in the street yard.
- (D) Any tree or shrub planted within a sight triangle shall comply with Section 304.2 Visibility at Intersections.

403.6 Standards for Landscaping within Parking Lots

- (A) All new parking lots with 12 or more spaces shall comply with the requirements of this section.
- (B) If an existing parking lot (paved or unpaved) is expanded or improved to add 12 or more spaces, it shall comply with the parking lot requirements of the landscape ordinance within the expanded or improved portion.
- (C) If a parking lot is expanded or developed, then Street Yard, Planting Yard, and parking lot requirements shall be applicable.
- (D) In parking lots with 12 or more spaces, trees shall be planted at a rate of one shade tree or two ornamental trees for every 12 spaces or fraction thereof.
- (E) Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than 60 feet from a parking lot tree.
- (F) Trees required within the Planting Yards or Street Yards cannot be credited toward the parking lot requirements.
- (G) Planting Areas within the parking lots shall provide a minimum of 81 square feet with a minimum inside dimension of nine (9) feet and a minimum prepared depth of 18 inches.

403.7 Tree Preservation and Care during Construction

Existing trees shall be preserved whenever feasible. Credits for tree preservation are offered when a tree preservation plan is submitted to the Town's Zoning Administrator prior to grading the site. A tree preservation plan must show that there will be no disturbance in the critical root zone (CRZ). A disturbance is considered trenching, placing backfill in the CRZ, driving or parking equipment in the CRZ, and dumping of trash, oil, paint, or other materials detrimental to plant health in close proximity of the tree(s).

When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.

Credit for existing trees within parking lots and Planting Yards will be given at the rate of 18 points per 4 inches in diameter at breast height (DBH) of existing plant material preserved. Minimum size requirement to qualify for tree preservation in 4 inches (DBH).

Should any tree designated for preservation in the tree preservation plan die at any time after approval of the plan or issuance of a Certificate of Occupancy, the owner shall replace sufficient landscaping equal to the tree preservation credit within 180 days. In the event of a restricted site, the owner may request review by the Zoning Administrator. The replacement tree shall be a minimum of 2" in caliper for a shade tree and a minimum of 6' in height for an ornamental tree (six feet from the top of root ball to top of tree) at the time of planting.

403.8 Landscape Plan Submittal Requirements

In order for a plan to be reviewed, a site plan containing the following information must be submitted to the Zoning Administrator:

- (A) Site plan shall be drawn to scale and include a North arrow and necessary interpretive legends.
- (B) Property lines and zoning designation of adjacent properties
- (C) Location of proposed buildings, parking areas with spaces delineated, paving and sidewalks.
- (D) Existing plant materials and areas to be left in natural state
- (E) Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required.
- (F) Locations, size, and names for all proposed plants
- (G) Location and description of other landscape improvements, such as earth berms, walls, fences, sculptures, fountains, and paved areas

- (H) Planting and installation details as necessary to ensure conformance with all required standards
- (I) Location of overhead and underground utilities
- (J) Landscape Compliance Summary Table. This Table shall list required Planting Yards by Type, length, points required and plants to meet the points requirement. This Table shall include length of Street Yard and Trees by type (shade of ornamental) to meet the tree planting standard. This Table shall include the number of new parking spaces provided and the trees required, and the trees proposed to meet Parking Lot Landscape requirements.

403.9 Landscape Standards and Specifications

- (A) The developer shall furnish and install all plant materials listed on the plan schedule.
- (B) Plant materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, which is published by the American Association of Nurserymen.
- (C) Plant materials must be from the Recommended Plant List or known to be hardy in USDA Plant Hardiness Zone 7. Plants included in the Plant Types to Discourage List may not be used to meet the requirements of this Ordinance.
- (D) Shade trees must be a minimum of 2 inches in caliper. Ornamental trees must be a minimum of 6 feet in height at the time of planting. (Six feet from top of root ball to top of tree.)
- (E) No tree may be planted in the sight triangle.
- (F) Do not use staking materials unless it is absolutely necessary. If staking is necessary, then the developer/property owner must remove the staking materials after one growing season.
- (G) Property owners ensure the survival and health of required tree in perpetuity.
- (H) A temporary Certificate of Occupancy may be issued when extremes in weather or soil conditions are not favorable for landscaping.
- (I) The developer shall ensure that all plant pits, vine pits, hedge trenches, and shrub beds are excavated as follows:
 - (1) All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth of the ball to be above existing grade. Soil within the Planting Areas shall be free of rock, debris, inorganic compositions, and chemical residues detrimental to plant life. Soil shall be compatible with the composition of the existing sub-soil and sufficiently blended to ensure adequate exchange of air and water between the Planting Area and the adjacent soil strata. Plants

shall rest on well-compacted surface. The tree pit shall be a minimum of nine inches larger on every side than the ball of the tree.

- (2) If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least 18 inches in depth.
- (J) Each tree or shrub, shall be pruned in an appropriate manner, in accordance with accepted standard practice.
- (K) All trenches and shrub beds shall be cultivated to the lines shown on the drawings. The areas around isolated plants shall be cultivated to the full diameter of the pit.
- (L) Existing trees shall be preserved whenever possible (see Section 1107).
- (M) All planting areas shall be mulched with a two-to-three inch layer of bark or other similar material to cover the Planting Area.

403.10 Alternative Methods of Compliance

- (A) Use of Alternate Plan, Material, or Methods: Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography, or other physical conditions; or front lot configuration, utility easements, unified development design, or unusual site conditions.
- (B) Approval of Alternate Plan: The Pine Level Planning Board may approve an alternate plan which proposes different plant materials or methods provided that quality, effectiveness, durability, and performance are equivalent to that required by this ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening, height, spread, and canopy of the planting at maturity.
- (C) Appeal: Decision of the Pine Level Planning Board regarding alternate methods of compliance may be appealed to the Pine Level Town Board of Commissioners.

403.11 Plant Substitution

Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting may be approved by the Zoning Administrator or his/her designee if the following are true.

- (A) There is no reduction in the quantity of plant material.
- (B) There is no significant change in size or location of plant materials

- (C) The new plants are of the same general category (i.e., shade tree, ornamental tree, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

404 ACCESSORY USES & STRUCTURES

Accessory uses are permitted in any zoning district in accordance with the following regulations:

404.1 In General

In no event shall “accessory use” or “accessory structure” be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located. Accessory uses shall be permitted according to Table 308.1. Every accessory use and structure shall be located and conducted on the same lot as the permitted principal use or structure.

404.2 Height

Accessory buildings shall conform to the height requirements of the zoning district in which they are located. Accessory buildings shall not exceed the principal building in height except in the RA zoning district where accessory buildings, barns, etc. may exceed 35 feet, provided such buildings maintain a minimum thirty (30) foot setback from all property lines and from the principal structure.

404.3 Setback

No accessory building or recreational structure or use may extend within five (5) feet of a lot line, nor within twenty (20) feet of a street right-of-way line.

404.4 Location

No accessory building (except a well house) or recreational structure or use may extend in front of the front building line of a single-family or two-family dwelling or manufactured home.

404.5 Separation

No detached accessory building shall be located closer than ten (10) feet to any other building or manufactured home, including other accessory buildings.

404.6 Sharing of Common Walls

An accessory building sharing one (1) or more common walls with the principal building shall be considered part of the principal building for purposes of this ordinance and must meet all yard requirements applied to the principal building.

404.7 Recreational Uses

Recreational uses and buildings accessory to multi-family dwelling complexes shall be in accordance with Section 405 of this ordinance.

404.8 Satellite Dish Antennas

Dish antennas less than twenty-six (26) inches in diameter shall be allowed as a permitted use in all zoning districts. Dishes larger than twenty-six (26) inches in diameter may be permitted only as a “special use” in accordance with Article VI.

404.9 Electronic game and pinball machines

Within an establishment devoted to another purpose shall be an accessory use provided that there shall be no more than two (2) machines. More than two (2) machines shall be considered a commercial amusement requiring a special use permit from the Board of Adjustment.

404.10 Fences and Walls

Fences and walls shall be permitted as accessory uses provided that they comply with the following:

- (A) No fence or wall more than three (3) feet in height, or retaining wall more than five (5) feet in height, may be placed in any front yard, including along the side lot line or in the yard to the front of any principal building, unless approved by the Pine Level Board of Commissioners, as a buffer in accordance with Section 403 of this ordinance.
- (B) Rear and side fences greater than seven (7) feet and no more than ten (10) feet in height, shall be of an open type similar to woven wire or wrought iron fencing except where a buffer with different specifications is required elsewhere by this ordinance.
- (C) Fences may not exceed seven (7) feet in height, except that in commercial districts (C and HB) and in the industrial district (LI), where such fences may be no more than ten (10) feet in height.
- (D) Fences and walls are exempt from the setback requirements of this ordinance.
- (E) No fence shall impede vision as regulated in Section 304 of this ordinance.

404.11 Domestic Animal Pens

- (A) Domestic Animal Pens shall follow the same guidelines as accessory building setbacks.
- (B) Domestic Animal Pens shall be placed five (5) feet from the property line, even if there is a full fence around the house, in order to be able to clean up around the pen.
- (C) The height of the pen cannot exceed six (6) feet.
- (D) The pen can never be placed in the front yard of a home.

405 STANDARDS FOR INDIVIDUAL USES

The development standards listed in this section are additional to other requirements of this ordinance. They are use-specific and apply to uses designated as a “D” in Table 308.1, the Table of Permitted Uses. These standards shall also apply to uses designated in the table as requiring a special use permit “S”.

405.1 Agricultural Uses

Buildings or structures used for the keeping of livestock, fowl or other agricultural permitted uses shall be located in the rear yard and shall not be located closer than fifty (50) feet from any property line, except that no livestock shall be kept within the town limits of Pine Level.

405.3 Amusement, Commercial - Outdoor

- (A) No outdoor activities, including parking, shall be located within two thousand (2,000) feet of any residentially zoned land. Lighting associated with the use shall not shine on adjacent properties. Noise from commercial amusements shall not be a nuisance to any residentially-zoned land.
- (B) Hours of operation are limited to 10:00 AM – 10:00 PM.

405.5 Amusement, Commercial – Indoor

Hours of operation are limited to 10:00 AM-10:00 PM.

405.7 Amusement Parks

No activities including parking, shall be located within two thousand (2,000) feet of any residentially-zoned land. No lights from the park may shine where they will produce glare which will not be directly cast on a residential structure. Noise from the park shall not be a nuisance to any residentially-zoned land.

405.9 Automobile Storage Yard

See requirements for 405.43, Storage and Salvage Yards

405.11 Bed and Breakfast

- (A) The establishment shall not serve food or drink to non-guests for pay.
- (B) The establishment shall serve only breakfast to registered guests of the establishment.
- (C) The price of breakfast shall be included in the room rate.
- (D) The establishment shall be the permanent residence of the owner of the establishment.

- (E) In any residential zoning district, no more than two off-street parking spaces shall be provided in the front yard and overnight guest accommodations shall be in the principal structure only.
- (F) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.
- (G) Employment shall not exceed two full time employees in addition to the owner(s).

405.12 Beehives

According to G.S. 106-645, a city may adopt an ordinance regulating hives, but only if the ordinance (1) permits up to five (5) hives on a single parcel within the city's land use planning jurisdiction and (2) requires the hives to be placed at ground level or securely attached to anchor stands. The statute also provides that such an ordinance may regulate the placement of hives on a parcel, to include setbacks from property lines and between hives. Additionally, the ordinance may require the removal of the hive if the owner no longer maintains it or if removal is necessary to protect the public's health, safety, and welfare.

- (A) Beehives are allowed in the city limits and the ETJ of Pine Level
- (B) They are permitted only in the following residential districts: RA, RS, RH, RMH,
- (C) Setbacks should be ten (10) feet from a property line
- (D) Placement of the hive would only be allowed in the backyard
- (E) Can and will be removed to protect the public's health, safety, and welfare.
- (F) Requires a Conditional Use Permit
- (G) Permit fee is required according to Town's fee schedule

405.13 Campgrounds & RV Parks

Campgrounds and RV parks are intended for seasonal occupancy only and shall not be used as a permanent residence.

405.15 Clubs, Private

- (A) Noise from a public address system shall not be heard beyond the structure containing the use.
- (B) Hours of Operation. The hours of operation are limited to ten (10:00) AM to two (2:00) AM.

405.17 Community Centers

- (A) Noise from a public address system shall not be heard beyond the property.
- (B) Any community center having a seating capacity in excess of five hundred persons shall have direct access to a major or minor arterial road.

405.19 Day Care Center

- (A) Outdoor play and/or recreation areas shall be located behind the front building line in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten feet shall be observed. On corner or through lots, a minimum twenty-foot setback as measured from the abutting street right-of-way line shall be required.
- (B) All outdoor play and recreation areas shall be surrounded by a fence or wall at least four feet in height.
- (C) At least one off-street passenger loading/unloading space separate from required parking shall be provided for each twenty people enrolled. Adequate on-site turnaround area shall be provided for all loading/unloading and parking spaces

405.21 Day Care, Home

- (A) A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling, all building and lot standards for residential dwellings shall be maintained.
- (B) No outdoor play shall be permitted after dark and care shall not be provided on a twenty-four hour basis.
- (C) The facility shall be staffed by persons residing in the dwelling in which the day care is located except that up to one non-resident may report to work at a daycare home.
- (D) The day care shall be located in a structure originally constructed as and designed for a single-family dwelling which shall be the principal structure on the lot. The structure shall not be altered in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.
- (E) The owner of the daycare home shall reside on premises.

405.23 Dwellings, Single-Family Detached

To insure compatibility and design harmony with the historic building patterns in Pine Level, the following design standards have been established. These standards are required for all new single-family residential construction.

- (A) All single-family and modular dwellings must meet the provisions of the North Carolina Residential Building Code.
- (B) Building Orientation. The primary entrance door must front on a street
- (C) Siding Materials. The following materials are acceptable for siding and trim: brick, stucco, wood clapboard, or materials designed to simulate wood

clapboard such as vinyl or cement board (hardi-plank). Corrugated metal or non-decorative concrete block is not permitted.

- (D) **Roof Materials and Design.** Acceptable roof materials include asphalt shingles, wood shingles, standing seam metal, slate. The majority of roof areas shall have a minimum 6:12 pitch.
- (E) **Additional Features.** All new homes must be designed with at least one of the following three (3) features:
 - (1) Varied footprint visible from street.
 - (2) Covered front porch with a minimum size greater than thirty-six (36) square feet.
 - (3) More than two roof lines visible from the street. This may be accomplished through roofs designed with gables, hips and varied pitch, etc.

405.25 Dwellings, Modular

Must meet standards of section 405.23 Dwellings, Single-Family above.

405.27 Dwellings, Multi-family (Including Condominiums)

- (A) **Building Separation:** Where more than one (1) building is to be located on the site, building separation shall be determined as follows:

The minimum horizontal distance between the vertical projections of any points on two (2) adjacent buildings shall be determined according to the following table. The separation shall be calculated from vertical projections for each building that are closest together.

Height of Taller Building	Minimum Horizontal Distance Between Vertical Projections
20 feet or less	16 feet
Between 20.1 and 25.0 feet	25 feet
Between 25.1 and 30.0 feet	30 feet
Between 30.1 and 35.0 feet	40 feet

Distance related to Windows. The minimum distance between the centers of facing windows of different dwelling units shall be twenty (20) feet.

- (B) **Buffer Yard Required:** A yard of at least fifty (50) feet shall be provided around the entire perimeter of the site, with the exception of driveways. Parking spaces and accessory buildings shall not be allowed in the required yard.

Accessory buildings and uses for multi-family dwellings shall not be placed in the fifty (50) foot yard around the perimeter of the site.

- (C) Access for emergency vehicles to all parts of the complex and to each dwelling unit shall be provided.
- (D) Accessory Uses. The Board may approve the inclusion of leasing offices and of coin-operated laundry facilities, swimming pools, snack bars, and similar service uses for residents of the multi-family dwelling provided that they are intended to serve residents of the dwelling or complex only and will not attract outside traffic to the site.

405.29 Dwellings, Townhouses

- (A) Lot Area Requirements. Minimum lot area, width, depth, and lot coverage requirements shall be as indicated in Section 302 of this ordinance.
- (B) Development Setbacks. The yard requirements around the perimeter of townhouse projects with more than two (2) attached townhouses shall be increased to fifty (50) feet.
- (C) The minimum number of townhouses attached to each other shall be two (2) and the maximum number shall be eight (8).
- (D) Common area. Any common areas and common open space shall be deeded to a homeowners' association which meets the requirements of Section 405.29(F).
- (E) Recreation and Open Space
 - (1) Every person or corporation who establishes a townhouse project for residential purposes shall be required to dedicate a portion of such land for the purpose of park, recreation, and open space sites to serve the residents of the townhouse project.
 - (2) The minimum amount of land that shall be dedicated for recreation, parks, or open space in all townhouse projects shall be one-half (½) acre for each townhouse, or five (5) percent of the gross acreage, whichever is greatest.
 - (3) Suitability of Land

Criteria for evaluating suitability of proposed recreation, parks, and open space areas shall include, but not be limited to, the following, as determined by the Board of Commissioners in consultation with the Planning Board and Recreation Committee.

 - a) Unity. The dedicated land shall be a single parcel except where it is determined that two (2) or more parcels would be in the public interest. The Board of Commissioners may require that parcels be connected and may require the dedication of a connecting path of up to sixty (60) feet, and in no case less than thirty (30) feet in width in addition to the land required in Section 405.29(E)(2) of this use.

- b) Location. The dedicated land shall be located so as to serve the recreation needs of the townhouse project.
 - c) Accessibility. Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement may be required to be up to sixty (60) feet in width and shall in no case be less than thirty (30) feet in width.
- (4) Usability. The dedicated land shall be usable for active recreation (play areas, ball fields, tennis courts, or similar recreation uses). Lakes may not be included in computing amount of land to be dedicated unless acceptable to the Board of Commissioners. If the Board of Commissioners determines that active recreation needs are being met by other dedicated parcels or existing recreation facilities, then land that is suitable for open space may be dedicated.
 - (5) The Board of Commissioners may, in cases of unusual or exceptional nature, allow adjustments in the dedication requirements established in or required by this ordinance. Such adjustments shall be reviewed by the Planning Board and Recreation Committee before action by the Board of Commissioners.
 - (6) The land required by this Section shall be deeded to a homeowners' association.
 - (7) Nothing herein shall be construed to limit the amount of privately controlled open space which may be included in this agreement, over and above the recreation and park site obligation.
- (F) Home Owners Association Required. A homeowners' association shall be required to be responsible for the maintenance of all common areas. The association shall also be responsible for all open space and recreation areas that are not deeded to the Town of Pine Level. The developer or owner shall file with the Zoning Administrator and record with the final townhouse project plat a declaration of covenants and restrictions as well as regulations and bylaws that will govern the maintenance of all common areas, recreation, and open space.

Provisions shall include, but not be limited to, the following:

- (1) The association shall be established before the homes are sold.
- (2) Membership shall be mandatory for each home buyer and all successive buyers, unless another arrangement is approved by the Board of Commissioners which adequately protects the interest of the Town and the owners.
- (3) The association shall be responsible for the liability insurance, local taxes, and maintenance of the recreation and other facilities.

- (4) Any sums levied by the association that remain unpaid shall become a lien on the individual homeowner's property which shall be subordinate only to tax and mortgagee liens unless another arrangement is approved by the Board of Commissioners which adequately protects the interests of the Town and the owners.
- (5) If all or any portion of the property held by the association is being disposed of, or if the association is dissolved, adequate open space shall be deeded to the Town of Pine Level to satisfy the requirements for public recreation space under this Section of the ordinance.
- (6) An owner of each dwelling unit or each homeowner shall have voting rights in the association.
- (7) Uses of common property shall be appropriately limited.
- (8) The following information shall also be provided:
 - a) The name of the association.
 - b) The manner in which directors of the association are to be selected.
 - c) The post office address of the initial registered office.
 - d) The name of the city and county in which the registered office is located.
 - e) The number of directors constituting the initial board of directors.
 - f) The names and addresses of the board of directors shall be submitted annually to the Town.
- (9) Property owners shall be furnished with a copy of the declaration of covenants and restrictions by the seller of the individual lot(s)

405.31 Family Care Homes

A family care home as defined in GS 168-21 for handicapped persons as defined in GS 168, Article 3, may not be located within a one-half mile radius of an existing family care home

405.33 Fraternal organizations not open to the public

Noise from a public address system shall not be heard beyond the property where the use is located.

405.35 Home Occupations

Home occupations are permitted in all districts only as an incidental use and shall comply with the following regulations:

- (A) No More than two (2) persons other than a resident of the dwelling shall be engaged in such occupation.
- (B) No more than two (2) vehicles may be used in the conduct of the home occupation. Any such vehicle shall be parked off the street. The parking of any such vehicles on the property, other than an automobile, shall be in an enclosed building as described in Section 405.35 (D) below, or shall be a special use subject to approval by the Board of Commissioners.
- (C) No more than twenty-five (25) percent of the total actual floor area of the dwelling or five hundred (500) square feet, whichever is less, shall be used in the conduct of the home occupation. In addition, one (1) accessory building, not exceeding one thousand (1000) square feet, may be permitted as a special use in connection with the home occupation, to house commercial vehicles and/or for the storage of materials used in connection with the home occupation. The accessory building may not be used for manufacturing, processing, instruction, sales, service, or other work in connection with the home occupation. All lot coverage, dimensional, and other requirements of this ordinance must be met by such accessory building. A sketch of the proposed building and list of the materials to be used on the outside must be submitted with the application for a Special Use Permit.
- (D) A home greenhouse may be permitted provided that such greenhouse meets the requirements of Section 404 and that any sales in connection with such greenhouse meet the requirements of this section (405.35).
- (E) No outdoor sales or storage shall be permitted in connection with the home occupation.
- (F) The exterior appearance of the dwelling shall not be altered in such a manner nor shall the occupation in the residence be conducted in such a way as to cause the premises to differ from its residential character in exterior appearance.
- (G) The use may not emit smoke beyond that which normally occurs in the applicable zoning district, nor shall it emit dust, vibration, odor, fumes, glare, electrical interference, interference to radio and television reception or other nuisance and shall not be volatile or present a fire hazard, nor may the occupation discharge into any waterway, stream, lake or into the ground or a septic tank any waste which will be dangerous or a nuisance to persons or animals, or which will damage plants or crops.
- (H) No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is conducted.
- (I) There shall be no more than two (2) deliveries per day to the premises of materials to be used in conjunction with the home occupation and these shall take place between the hours of seven (7:00) AM and nine (9:00) PM.

- (J) No customers, clients, patrons, or employees other than the residents' household may be on the premises in connection with the home occupation before seven (7:00) AM or after nine (9:00) PM.
- (K) The following are strictly prohibited as home occupations: car washes, commercial automotive repair garages, any occupation which involves the storage of liquid petroleum, gasoline, kerosene or other flammable liquids, funeral homes and mortuaries, massage parlors, sale of reading or viewing material of a pornographic nature, animal hospitals and kennels.
- (L) Signs. In addition to the signs permitted in Section 402, home occupations located in an area zoned RA shall be allowed one ground sign not to exceed four feet in height and twenty (20) square feet in area. The home occupation shall follow all other requirements of Section 402

405.37 Manufactured Home, Class A

Class A Manufactured homes on individual lots shall meet the dimensional requirements of the underlying zoning district. In addition, the following requirements shall be met:

- (A) Have a length not exceeding three times its width.
- (B) Minimum size of 1100 square feet
- (C) Roof is finished with either asphalt or fiberglass type shingles that are commonly used in standard residential construction.
- (D) Exterior siding consisting of vinyl or aluminum horizontal lap siding, wood or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
- (E) Continuous, permanent masonry foundation or brick curtain wall, unpierced except for required ventilation and access
- (F) Permanent steps shall be constructed at all exterior doors as necessary and a permanent porch or patio measuring at least three (3) feet in width and five (5) feet in length shall be constructed at the front or main entrance to the manufactured home.
- (G) Tongue, axles, transporting lights, and removable towing apparatus are removed subsequent to final placement.
- (H) 6" overhang, which may include rain gutters.
- (I) Roofs to have nominal 4/12 pitch.
- (J) Be listed as real property (must own land as well as the home).

405.39 Manufactured Home, Class B

Class B manufactured homes located within an approved manufactured home park in the RMH district, or located on individual lots as a special use in the RA district shall meet the following standards:

- (A) Age. All Class B manufactured homes shall be twenty years old or less at the time of permitting.
- (B) Exterior finished shall be in good repair and in no case shall the degree or reflectivity of the exterior siding, foundation skirting, and roofing, exceed that of gloss white paint.
- (C) Skirting required. A skirt or curtain wall, unpierced except for required ventilation and access, is required under the manufactured home, and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation, and
- (D) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance.
- (E) The running lights shall be removed and the hitch shall either be removed or screened with shrubbery.
- (F) At least two (2) off-street parking spaces shall be provided.
- (G) All areas not used for parking, manufactured home, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
- (H) All standards must be met prior to issuance of a Certificate of Occupancy.

405.41 Manufactured Home Parks

- (A) Where Required: RMH
- (B) Definition of Terms

Unless otherwise stated, the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes plural, and the plural the singular. The word "shall" is mandatory, not directory.

- (1) *Public or Community Sewer System*: Shall mean any sewerage system serving two (2) or more connections.
- (2) *Construction Permit*: A permit issued by the enforcement officer authorizing the manufactured home park developer to construct a manufactured home park in accordance with a park plan approved by the

Pine Level Planning Board, Town Board of Commissioners, the Johnston County Health Department, and the Johnston County Building Inspector.

- (3) *Florida Room*: A prefabricated room designed and manufactured specifically for manufactured homes.
 - (4) *Manufactured Home Space*: A plot of land within a manufactured home park designed for the accommodation of a single manufactured home in accordance with the requirements set forth in this ordinance.
 - (5) *Manufactured Home Stand or Pad*: That portion of a manufactured home space designed for and used as the area occupied by the manufactured home proper.
 - (6) *Operator*: Shall mean a person responsible for the operation of a manufactured home park.
 - (7) *Parking Bay*: Two (2) off street parking spaces per manufactured home space.
 - (8) *Public or Community Water System*: Means a water system serving three (3) or more manufactured homes, thereby requiring approval by the NC Dept. of Environment & Natural Resources (NCDENR).
 - (9) *Recreational Vehicle*: A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.
 - (10) *Underpinning*: Approved skirting material around the manufactured home base.
- (C) Within a manufactured home park, one (1) manufactured home may be used as an administration office.
- (D) Recreational Vehicles (RV's) are not allowed as residential structures within the park.
- (E) Manufactured homes shall not be sold within a manufactured home park, except that an individual homeowner shall be allowed to sell the manufactured home in which he/she resides.
- (F) The Johnston County Inspections Department may, after due notice, subject to the right of appeal, suspend or revoke the Certificate of Occupancy for failure to maintain the park in compliance with the provisions of this ordinance. The Certificate of Occupancy may be revoked for a specific section of a manufactured home park which is in violation and occupancy allowed to continue in portions of the park which are in compliance with the Certificate of Occupancy.
- (G) Inspections

- (1) The Johnston County Health Department and the Zoning Administrator are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance and the North Carolina State Building Code. It shall be the duty of the owners or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for the purpose of inspection.
 - (2) The owners, management, or occupants to whom a construction permit for a manufactured home park is issued shall operate the park in compliance with this ordinance and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in a clean and sanitary condition.
 - (3) The park owner or operator shall notify park occupants and prospective occupants of all applicable provisions of the ordinance and inform them of their duties and responsibilities under this ordinance. If ownership changes, a new operating permit shall be obtained.
- (H) Site Plan Required. A site plan submitted in accordance with Section 606 is required.
- (I) Design Standards
- (1) *General Requirements*

No living compartment or structure, other than a Florida Room, or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three (3) sides may be permitted if yard space requirements of this ordinance are not violated.
 - (2) *Streets and Parking*
 - a) Each manufactured home space shall abut upon an improved street or driveway which shall have unobstructed access to a State maintained road.
 - b) Paved streets shall have a minimum paved width of eighteen (18) feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of forty-five (45) feet.
 - c) Maintenance of such streets shall be provided by the owner or operator of the park, who will be required to post a bond for the first year's maintenance, amount and terms to be determined by the Planning Board.
 - d) Permanent dead-end streets or cul-de-sacs shall not exceed one thousand (1,000) feet in length and shall be provided with a turn-around of at least fifty (50) feet in diameter.

- e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than sixty (60) degrees. Where a street intersects a public street or road, the design standards of the NC Department of Transportation shall apply.
- f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in Pine Level or Johnston County. The manufactured home park developer shall be required to provide and erect street name signs to State standards at all intersections within the manufactured home park.
- g) A minimum of two (2) parking spaces, surfaced with a minimum of four (4) inches of gravel, shall be provided adjacent to each manufactured home space but shall not be located within any public right-of-way or within any street in the park.
- h) All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed in the front of the manufactured home on the driveway side with four (4) inch lettering.
- i) Each manufactured home park in a community's flood-prone area shall have an evacuation plan indicating alternate vehicular access and escape routes. All manufactured homes to be placed in flood prone areas shall be anchored to resist flotation, collapse, or lateral movement.

(3) *Manufactured Home Space Requirements*

- a) All manufactured homes shall be located on individual manufactured home spaces. Each space shall be clearly marked by means of concrete or iron pipe placed at all corners.
- b) Minimum manufactured home space size table:

Utilities	Minimum Space Size (sq. ft.)
Public Water & Sewer Service	5,000
Public Sewer & Individual Well	15,000
Public Water & Septic Tank	25,000*

Note: * Area may be larger if determined necessary by the Johnston County Health Dept.

- c) Yard Requirements. The following yard requirements shall pertain to every manufactured home stand or pad:
 - 1) Front Yard: Measured from street right-of-way line, thirty (30) feet
 - 2) Side yard: Ten (10) feet.

3) Rear Yard: Twenty (20) feet.

4) Distance horizontal from the 100-year flood water line of a stream, river, or lake: Fifty (50) feet.

(4) *Landscaping and Screening Requirements*

The manufactured home park shall be landscaped in accordance with Section 403.

(5) *Accessory Buildings*

Accessory buildings may be constructed in the rear yard provided they are no larger than 12' x 12' and no closer than fifteen (15) feet from any adjoining lot line.

(J) Utility Requirements.

(1) An accessible adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the NC Dept. of Environment & Natural Resources and the Johnston County Environmental Health Department.

(2) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants complying with the requirements of the North Carolina Department of Environment and Natural Resources (NCDENR) shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to NCDENR and the Johnston County Environmental Health Department.

(3) *Solid Waste Disposal and Sanitary Requirements*

a) The storage, collection, and disposal of solid waste in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazards or pollution, and shall be maintained at least one hundred fifty (150) feet from the well site.

b) All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, with a capacity not more than thirty-two (32) gallons which shall be located at each manufactured home space or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the Johnston County Health Department.

- c) Stands shall be provided for all containers. Such container standards shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
- d) All garbage shall be collected at least once weekly. Where suitable collection service is not available from municipal or private agencies, the manufactured home park operator shall provide this service. All garbage shall be collected and transported in covered vehicles or covered containers to the Johnston County Landfill or an approved disposal site by the County Health Department.
- e) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Examination methods and other measures to control insects and rodents shall conform with the requirements of the County Health Director.
- f) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe, and other building materials shall be stored at least one (1) foot above ground.
- g) No junked or abandoned vehicles shall be allowed in the park.

(4) *Street Lighting Requirements*

All streets in the manufactured home park shall be adequately illuminated. The minimum size streetlight shall be a 175-watt mercury vapor, approximately 7,000 lumen class, or its equivalent, spaced at intervals of not more than three hundred (300) feet. Streetlights shall be at each street intersection.

(5) *Telephone and Power Lines*

All telephone and power lines are to be located underground. Utility easements shall not be less than ten (10) feet in width.

(K) *Recreation Areas and Facilities*

- (1) Adequate and suitable areas to serve the anticipated population shall be provided and shall consist of at least ten thousand (10,000) square feet per twenty-five (25) manufactured homes.
- (2) Suitable facilities shall be provided as shown in the following table:

Facility	Per 25 Manufactured Homes	Minimum size of Single Facility
A. Play lot	300 Sq. ft.	300 sq. ft.
B. Recreation Facilities	10,000 Sq. ft.	10,000 sq. ft.

- (3) No recreation facilities shall be placed in an area utilized for septic tank filter fields.
- (4) Two (2) pieces of equipment per twenty-five (25) manufactured homes will be required.

(L) Existing Manufactured Home Parks

Manufactured home parks existing at the time of the adoption of this ordinance with spaces completed and ready for occupancy shall be allowed to continue to operate. Manufactured home parks existing at the time of the adoption of this ordinance shall not be allowed to expand or increase in any manner unless such expansion meets fully the requirements set forth in this ordinance.

405.43 Storage and Salvage Yards

- (A) Where Required: LI
- (B) The minimum area required to establish a storage yard shall be ten (10) acres.
- (C) Outside Storage: An approved opaque fence of uniform construction not less than six feet in height shall be required around the perimeter of the activity. Such fencing shall be located between the use and the required landscape planting yard.
- (D) No salvage operations shall take place within three hundred (300) feet of any school, or residential property (existing or under construction at the time of permit request).

405.45 Planned Unit Developments

- (A) Where Required: RA, RS, RH and RMH
- (B) A planned unit development is a project which is at least fifteen (15) gross acres in size to be located under unified control, planned as a whole, and developed in a single development operation or in a definitely programmed series of units or stages of development according to comprehensive and detailed plans, with a program for the provision, operation, and maintenance of any areas, improvements, and facilities provided for the common use of the occupants or users of the development.
- (C) A planned unit development may contain any of the permitted or special uses listed for the RA, RS, or RH districts, subject to approval of the plans by the Pine Level Board of Commissioners. Dimensional and density requirements for multi-family dwellings in a planned unit development shall be as indicated for multi-family dwellings in section 405.27 and in this section of this ordinance. Dimensional requirements for non-residential uses in a planned unit development shall be those listed for "Other Principal Uses" in Section 302 of this ordinance for the district in which the planned unit development is located.

Shopping centers are also permitted in a planned unit development. Uses allowed in such shopping centers are: grocery stores, drug stores laundry and dry cleaning establishments, offices, gift shops, card shops, camera and photography shops, barber and beauty shops, and restaurants.

- (D) In addition to the uses allowed in the RA, RS, RH districts and shopping centers, the following uses are allowed in planned unit developments:
- (1) Clustered detached single-family dwellings. These are dwellings in which the lot size for each individual dwelling may be reduced but may not be less than six thousand (6,000) square feet provided, that the difference between the required dimensions for the district, as indicated in Section 302 of this ordinance and the reduced dimensions, is dedicated to a homeowners' association as common open space.
 - (2) Zero-lot line dwellings, that is, detached single-family dwellings on lots without a side yard requirement on one (1) side of the lot. The lot for a zero-lot line dwelling may be reduced but may not be less than six thousand (6,000) square feet provided the difference between the required dimensions for the district as indicated in Section 307.2 of this ordinance and the reduced dimensions is dedicated to a homeowners' association as common open space.
- (E) A minimum of ten percent (10%) of the gross area for Common areas and Open space shall be deeded to an owners' association and the developer or owner shall file with the Zoning Administrator and record in the Johnston County Register of Deeds office, a declaration of covenants and restrictions as well as regulations and bylaws that will govern the open space. Provisions shall include but not be limited to the following:
- (1) The association shall be established before the homes, buildings, or uses are sold.
 - (2) Membership shall be mandatory for each buyer and all successive buyers, unless another arrangement is approved by the Pine Level Board of Commissioners which adequately protects the interests of the Town and the owners.
 - (3) The association shall be responsible for the liability insurance, local taxes, and maintenance of recreation and other facilities.
 - (4) Any sums levied by the owners' association that remain unpaid shall become a lien on the individual owner's property which shall be subordinate only to tax and mortgage liens unless another arrangement is approved by the Town Board which adequately protects the interests of the Town and the owners.
 - (5) Any owner of each dwelling unit or each homeowner or other building owner shall have voting rights in the association.
 - (6) Uses of common property shall be appropriately limited.

- (7) The following information shall also be provided:
 - a) The name of the association;
 - b) The manner in which directors of the association are to be selected;
 - c) The post office address of the initial registered office;
 - d) The name of the city and county in which the registered office is located; and
 - e) The number of directors constituting the initial board of directors.
 - f) The names and addresses of the board of directors shall be submitted annually to the Town.

- (8) Residential property owners shall be furnished with a copy of the declaration of covenants and restrictions by the seller of the individual lot(s)

405.47 Recreational Vehicle Park
See Section 405.13

405.49 Telecommunication Tower

The minimum distance from the center of the transmission tower to the nearest property line shall be two (2) times the height of the tower or the height of the tower plus two-hundred (200) feet, whichever is greater. Off-street parking shall be provided at the rate of one (1) space for each employee.

405.51 Temporary Events

Includes uses such as circuses, carnivals, fairs, farm stands, religious tent revivals

- (A) The site shall be located at least two hundred (200) feet from the nearest occupied residential structure and shall be adequately designed for its size and purpose. The use shall meet any applicable Johnston County Health Department regulations.
- (B) Time Limit. Permits for temporary events shall have a five (5) day time limit.
- (C) A completed application form shall be furnished to the Town. The applicant must demonstrate provisions for sanitation, parking and security.

406 YARD/GARAGE SALES

406.1 Definition

For the purpose of this chapter, the following definition(s) shall apply unless the context clearly indicates or requires a different meaning.

Yard/Garage Sale – a display and sale from a residence or residential property, of personal property which has been owned or previously used. The terms Yard Sale or Garage Sale does not include the mere incidental sale of one or two items of personal property when the sale is not part of a general sale of a number of items of personal property. Periodic non-profit fund raising activities are excluded from this definition.

406.2 Conformance

All the sales shall be subject to the rules and regulations of this chapter.

406.3 Consignment Sales Prohibited

No person shall accept or take in for sale, any goods from any commercial business or enterprise on a consignment basis for sale in a yard/garage sale.

406.4 Signs

Two off-site directional signs may be permitted, but only during the hours the sale is actively being conducted. Off-site signs must be removed at the close of the sale activities, or by the end of daylight, whichever occurs first, each day of the sale. No freestanding signs may be placed in the public right of way.

406.5 Number of Sales Limited

Not more than four yard/garage sales per year shall be held at the premises, if occupied by the same family or any member of the family.

406.6 Hours of operation

Yard/garage sales may be conducted during daylight hours only. At no time shall a single sale be conducted for a period longer than two consecutive weekends, or 72 hours, whichever is the lesser.

406.7 Exception

The provisions of this chapter shall not apply to or affect persons selling goods pursuant to an order of a court of competent jurisdiction or persons acting in accordance with their powers and duties as public officials.

406.8 Penalty

Anyone violating the provisions of this chapter shall be guilty of a misdemeanor and can be confined for not more than thirty (30) days or fined in the excess of fifty dollars (\$50). Each day's continuing violation of this chapter shall be a separate and distinct offense.

407 FLEA MARKETS

407.1 Definition

For the purpose of this chapter, the following definition(s) shall apply unless the context clearly indicates or requires a different meaning.

Flea Market – A market held in an open area or structure where goods are sold to the general public by individual sellers from open or semi-open facilities or temporary structures. Periodic non-profit fund raising activities are excluded from this definition.

407.2 Special Use

Flea Markets require a Special Use Permit.

407.3 Site Plan Requirements

The site plan for a flea market shall show the following information:

- A. Name and address of applicant and the owners of the flea market.
- B. Name and address of landowners.
- C. Location (vicinity map) and legal description of flea market site.
- D. A legible map drawn to a minimum scale of 1 inch = 100 feet, with a north arrow, and showing site layout, parking, booth arrangements, etc.
- E. Total area and dimensions of site.
- F. The location, width and area of roadways, parkways, streets, driveways, and walks.
- G. Location of all water and sewer lines.
- H. Plans and specifications (including phases if applicable) of all buildings to be constructed on site.
- I. The location and details of outdoor lighting and electrical systems.
- J. Gross density or number of booths per building and gross sales area, number of parking spaces.
- K. Location of service buildings and other proposed structures.

407.4 Minimum lot size

The minimum lot area of a flea market site shall be one (1) acre.

407.5 Unlicensed vehicles regulated

Unlicensed vehicles (golf carts, trash trucks, security cars, tractors, etc.) used on the market site are limited to those owned by the market and used as part of the operation.

407.6 Handling of trash

Trash shall be stored in sealed containers and must be removed from the market site on at least a weekly basis. Trash, cardboard and other debris must be disposed of by private means. Trash receptacles for public use shall be placed within seventy-five feet (75') of all sales areas.

407.7 Overnight camping

No overnight camping is permitted.

407.8 Alcohol/fireworks

No open container of alcohol is permitted. The sale or use of fireworks is prohibited.

407.9 Restroom facilities

Restroom facilities must be centrally located and free standing. The legal number of restrooms (including the number of stalls, location, provision for handicapped, inspections, etc.) shall be determined by the Johnston County Health Department. Portable toilets are allowed for construction purposes.

407.10 Food preparation

Food preparation areas shall comply with the Johnston County Health Department guidelines and are subject to inspection at all times. Placement of hand wash sinks, sewer hookups, restroom facilities, etc. shall be as required by the Johnston County Health Department. Food preparation areas connected to the Town sewer system shall have a grease trap located before the public sewer connection point.

407.11 Access

Public entrance shall meet NCDOT standards for street access. The minimum setback of the market area (including internal driveways, trash receptacles, structures, sales areas) is twenty-five feet (25') from public street pavement and ten feet (10') from all property lines.

407.12 Building requirements

The initial building shall have a floor area of at least four thousand (4,000) square feet. All roofs must be of the same type and pitch. Public walkways shall have a width of at least ten feet (10') and shall be maintained clear of all obstacles.

407.13 Motorized devices, marked spaces

Except for motorized wheel chairs and similar devices used by disabled persons, the use of scooters, skateboards, bicycles or the like, are not allowed in buildings. Spaces within a building or on the site must be marked to facilitate finding the space in case of an emergency. Buildings must be constructed within six (6) months after the appropriate permit is issued. No temporary buildings are allowed.

407.14 Buildings allowed for retail sales

The following types of buildings may be used for retail sales space.

- A. Buildings enclosed with a permanent roof, permanent floor and permanent sides with a minimum square footage of two thousand (2,000) square feet.
- B. Open buildings with permanent roof and permanent floor with a minimum square footage of two thousand (2,000) square feet. The total square footage of all open buildings shall not be more than the total square footage of all enclosed buildings.

407.15 Off street parking

The minimum off street parking spaces shall not be less than six (6) spaces per one thousand (1,000) square feet of gross sales area, plus one (1) space per booth, table or sales area. Otherwise, the off street parking requirements of this Ordinance shall govern.

407.16 Insect and rodent control

- A. The grounds, buildings and structures shall be kept free of insect and rodent and rodent harborage and infestation.
- B. Insect and rodent control measures shall comply with the Johnston County Health Department requirements.
- C. The flea market site shall be kept free of debris that may provide harborage or breeding places for rodents, flies, mosquitoes and other pests.
- D. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects.
- E. Flea markets shall be maintained to prevent the growth of ragweed, poison ivy, poison oak and other noxious weeds considered detrimental to health.
- F. Open areas shall be maintained free of heavy undergrowth of any description.
- G. The flea market shall be subject to the requirements of any Ordinances regarding to insect and rodent control.

407.17 Buffering

A buffer strip of at least fifteen (15) feet in width shall be provided along lot lines adjacent to any residentially zoned district or any residence, church, or school. The strip shall be composed of at least two (2) rows of evergreen bushes, trees, or shrubs. Vegetated buffers shall maintain a minimum height of six (6) feet and foliage overlap within six (6) years of planting.

407.18 Site specific details

While this chapter lists general guidelines for the development of a flea market within the Pine Level Extraterritorial Jurisdiction, the reviewing authority shall also consider site-specific details when considering an application.

ARTICLE V - NON-CONFORMING USES, LOTS & STRUCTURES

A lawful pre-existing use, structure, or lot which does not meet the requirements of the current zoning ordinance is called a nonconformity. Special provisions apply to nonconformities and these are listed in Sections 501 to 506 of this ordinance. In lieu of the provisions in this Section, non-conforming signs shall comply with the requirements in Article IV.

501 EXISTING SUBSTANDARD STRUCTURES

- 501.1 The conforming use of a structure as explained in Section 504 of this ordinance, existing at the time of adoption of this ordinance, may be continued although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this ordinance. Such structures are called substandard structures.
- 501.2 Substandard structures with conforming uses may be added to or enlarged provided that the enlargements comply with the yard, height, parking, loading, access, and all other applicable requirements of this ordinance for the district in which such a structure is located.
- 501.3 A substandard structure which is damaged or destroyed by fire, explosion, flood, or other calamity to more than fifty-one (51) percent of its current equalized value, may be reconstructed and shall comply with the yard, height, parking, loading, access, and all other applicable provisions of this ordinance for the district in which the structure is located unless the structure is situated on a substandard lot of record, in which case the provisions concerning substandard lots of record shall apply.
- 501.4 A substandard structure may not be moved off the lot or lots on which it is located unless when relocated it complies with the regulations for the district in which it is located.

502 EXISTING NONCONFORMING USES

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption of this ordinance may be continued except that:

- 502.1 Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be enlarged or extended, nor may additional structures be added to be occupied by the nonconforming use, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming, provided that required setbacks are met.
- 502.2 Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted provided it does not extend the nonconforming use. A structure occupied by a nonconforming use may be changed to make the structure more in character with the uses permitted in the district in which it is located.
- 502.3 If the nonconforming use is damaged by fire, explosion, flood, or other calamity to the extent of more than fifty-one percent (51%) of its current equalized value, it shall not be restored except so as to comply with the use provisions of this ordinance.

- 502.4 If such nonconforming use is discontinued or terminated for a period of more than one hundred eighty (180) days, any future use of the structure, land, or water shall comply with the provisions of this ordinance.
- 502.5 A nonconforming use may not be moved off the lot or lots on which it is located unless when relocated it complies with the regulations of the district in which it is relocated.
- 502.6 The Board of Commissioners may permit as a special use a change in nonconforming use provided that the requirements of subsections 502.1, 502.2, 502.3, 502.4, and 502.5 of this section are met and the Board of Commissioners finds that such new use would be more in character with the uses permitted in the district than the previous use. In permitting the change, the Board of Commissioners may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.
- 502.7 Once a nonconforming use has been changed or altered so as to comply with the provisions of this ordinance, it shall not revert back to a nonconforming use. Once the Board of Adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board. If the structure occupied by a nonconforming use is changed so as to be more in character with the uses permitted in the district in which it is located, it shall not subsequently be changed to be less in character.

503 EXISTING VACANT SUBSTANDARD LOTS

- 503.1 Where the owner of a lot of record at the time of adoption of this ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the lot area or lot width requirements of this ordinance, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted; or as a site for a manufactured home only if the lot is in a district where manufactured homes are permitted; provided that the lot width and lot area are not more than twenty percent (20%) below the minimum specified in this ordinance, and further provided that the appropriate county health department approves the reduction if on-site water or wastewater facilities are involved. In any case where the lot area and lot width are more than twenty percent (20%) below the minimum specified in this ordinance or other requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions if the Johnston County Health Department submits a letter of approval if on-site water or wastewater facilities are involved. If the preexisting substandard lot is not in a district where single-family dwellings or manufactured homes are permitted, the Board of Adjustment may issue a variance to allow some reasonable use.
- 503.2 If two (2) or more adjoining lots of record are in one (1) ownership when this ordinance is adopted, or at any time after the adoption of this ordinance, and such lots individually do not meet the minimum dimensional requirements of this ordinance for the district in which such lots are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the district in which located, and therefore, the provisions of subsection 503.1 do not apply.

504 NONCONFORMING MANUFACTURED HOMES

Notwithstanding the provisions of sections 501 through 503 of this article, Nonconforming manufactured homes located on individual lots shall be governed by this section.

- 504.1 Manufactured homes located in districts where they are not permitted, but which existed prior to the adoption of this ordinance, may be replaced with a newer home provided all lot area, dimensional and yard requirements for the district are met.
- 504.2 If a nonconforming manufactured home, existing prior to the adoption of this ordinance, is damaged by fire, explosion, flood, or other calamity it may be replaced provided all lot area, dimensional and yard requirements for the district are met.
- 504.1 If a nonconforming manufactured home is removed from a lot for a period in excess of 180 days it shall not be replaced.

505 CONFORMING USES AND STRUCTURES

- 505.1 Any use or structure existing prior to the effective date of this ordinance which conforms to the regulations of this ordinance for permitted uses and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any changes in use or structural or other changes shall comply with the provisions of this ordinance.
- 505.2 Any structure or use existing prior to the effective date of this ordinance which would be permitted by this ordinance as a special use in the district in which it is located, may be continued as if a special use permit had been applied for and issued, provided that any changes in use or structural or other changes shall comply with the provisions of this ordinance.

506 EFFECT OF AMENDMENTS

If subsequent amendments to this ordinance or the official zoning map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this Section unless otherwise stated in the amendment.

ARTICLE VI – ADMINISTRATION AND AMENDMENTS

601 BOARDS

601.1 Zoning Administrator

The Zoning Administrator who shall be appointed by the Board of Commissioners is duly charged with the enforcement of the provisions of this ordinance. If the Zoning Administrator(s) finds that any of the provisions of this ordinance are being violated, he or she shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action(s) necessary to correct it. He or she shall also take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. It shall be the duty of the Zoning Administrator to maintain in paper or digital format current and prior zoning maps, together with any state or federal agency map incorporated into this ordinance by reference, for public inspection

601.2 Planning Board

- (A) Powers and Duties of Planning Board. As directed by the Board of Commissioners, the Planning Board shall have the following duties:
- (1) Make studies and recommend to the Board of Commissioners plans, goals and objectives relating to the growth, development and redevelopment of the Town planning jurisdiction.
 - (2) Develop and recommend to the Board of Commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
 - (3) Make recommendations to the Board of Commissioners concerning proposed zoning text and map amendments, as provided by Section 608.
 - (4) Review and approve minor subdivisions in accordance with the subdivision regulations of the Town of Pine Level.
 - (5) Perform any other duties assigned by the Board of Commissioners.
 - (6) Must keep minutes of all proceedings.
- (B) The Board shall adopt rules and bylaws in accordance with the provisions of this ordinance and of Chapter 160D of the General Statutes of North Carolina
- (C) Conflict of Interest. Planning board members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

601.3 Board of Adjustment

- (A) Establishment. The Planning Board of the Town of Pine Level is hereby designated to serve as the Board of Adjustment. The alternate members of the

Planning Board shall also be alternate members when the Planning Board is serving as the Board of Adjustment. The in-town members, and in-town alternate members in the absence of in-town regular members, shall have voting power on all matters of business, whether in-town or in the extraterritorial jurisdiction. The extraterritorial members, and extraterritorial alternate member in the absence of an extraterritorial regular member, shall have voting powers on all matters of business, whether in-town or in the extraterritorial jurisdiction. The Board of Adjustment must keep minutes of all proceedings.

(B) Powers and Duties of the Board of Adjustment. The Board of Adjustment shall have the following powers and duties:

(1) *Administrative Appeals.* To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance. An appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the Town. Appeals shall be taken within times prescribed by the Board of Adjustment by general rule, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The officer from whom the appeal is taken shall be a required witness at the appeal hearing. In the event that the officer from whom the appeal is taken is no longer employed by the Town, said officer's successor shall be called as an alternate witness.

An appeal stays all proceedings in furtherance of the action appealed from, including, but not limited to, any and all fines imposed, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this ordinance. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that, in its opinion, ought to be made in the premises. To this end, the Board shall have all the powers of the officer from whom the appeal is taken.

(2) *Variances.* When unnecessary hardships would result from carrying out the strict letter of this ordinance, the Board of Adjustment shall have the power

to vary or modify any of the regulations or provisions of this article relating to the use, construction or alteration of buildings or structures or the use of the land, so the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance. A variance may be granted in such individual cases of unnecessary hardship upon a finding by the Board of Adjustment that all of the following conditions exist:

- a) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

No change in permitted uses may be authorized by variance.

Conditions imposed on variances: In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured. Such conditions may be imposed by the Board regarding the location, character, and other features of the proposed building, structure, or use as may be deemed by the Board to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. The conditions must be reasonably related to the variance.

(3) *Map Interpretation.* To interpret the official zoning map in accordance with Section 306 of this ordinance.

- (C) Proceedings of the Board of Adjustment. The officers of the Planning Board shall retain their offices when the Board is acting as the Board of Adjustment. The Board shall adopt rules and bylaws in accordance with the provisions of this ordinance and of Chapter 160D of the General Statutes of North Carolina. Meetings of the board shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his or her absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public.

The concurring vote of four-fifths (4/5) of all members of the Board of Adjustment is necessary to grant a variance from the provisions of this ordinance. That is, the concurring vote of eight (8) of the nine (9) members of the Board is necessary to take the actions indicated in this paragraph.

The concurring vote of a majority of all members of the Board of Adjustment is necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of this ordinance; or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance. That is, the concurring vote of five (5) of the nine (9) members of the Board is necessary to take the actions indicated in this paragraph.

Hearings by the Board of Adjustment shall be conducted in accordance with Section 607 of this ordinance.

- (D) Decisions and Appeals. Every decision of the Board of Adjustment shall be filed in the office of the Zoning Administrator and a written copy thereof shall be delivered to the appellant by personal service or registered mail. Every decision by the Board shall be subject to review by superior court by proceeding in the nature of certiorari. Any appeal to the superior court shall be taken within thirty (30) days after the decision of the Board is filed in the Office of the Zoning Administrator, or after a written copy thereof is delivered to the appellant by personal service or registered mail or certified mail, return receipt requested, whichever is later.

602 PERMITS

602.1 Zoning Permit Required

No building or structure including signs and fences, or any part thereof shall be erected, extended, enlarged, or structurally altered or moved until a zoning permit has been issued by the zoning administrator or his authorized representative. A fee in accordance with the Town's adopted fee schedule shall be charged for the issuance of each zoning permit. All applications shall be in a form prescribed by the zoning administrator and shall be accompanied by a site or plot plan in accordance with section 602.2 below.

602.2 Site Plan Required

- (A) Site or plot plans shall be required as part of the application process for any of the following:
- (1) New structures
 - (2) Expansions to existing structures
 - (3) Any new use not contained within an existing building except:
 - a) Agricultural uses which do not involve the construction of buildings, containment pens for livestock, swine, or poultry, or the construction of sediment or animal waste lagoons;
 - b) Temporary or seasonal uses unless the zoning administrator cannot otherwise determine compliance with parking or screening requirements.
 - (4) Any significant change in required landscaping or buffer areas.
 - (5) An expansion to parking areas requiring a landscaping plan in accordance with Section 403.
- (B) Plot Plan Requirements. A plot plan shall be required for any single family or duplex residential use, and any other situation determined by the zoning administrator to require such a plan. A plot plan does not require the seal of a professional engineer, architect, landscape architect, or surveyor, but shall be drawn to scale and signed by the preparer. It shall consist of the following elements, except that the zoning administrator has the authority to waive any application requirement where the proposed type or scale of use makes that information unnecessary or impractical.
- (1) The date the plan was drafted along with the name, signature, address and phone number of the preparer.
 - (2) The zoning classification of the subject property and all immediately adjacent properties.
 - (3) Property lines, lot dimensions, and total acreage.
 - (4) The location and extent of rights-of-way and easements.
 - (5) The location and type of natural water features (e.g., streams, ponds, rivers, wetlands, etc.)
 - (6) The location and dimensions of driveways
 - (7) The approximate location and dimension of structures including signs.
 - (8) The location and dimension of parking lots/areas and internal circulation drives.

- (9) The location and dimension of private streets.
 - (10) The approximate location and dimensions of landscaping, buffering, screening, fences, and walls.
 - (11) Septic tank systems and wells (including dimensions of each).
 - (12) The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade).
- (C) Site Plan Requirements. A site plan shall be required for all commercial, industrial and multi-family projects, and any other situations determined by the zoning administrator or Planning Board to require such a plan. A site plan shall require the seal of a professional engineer, architect, or landscape architect, except that surveyors may also seal plans for projects that do not include any engineering storm water control structures. The plan should be drawn to a scale such that all features are clearly legible. A site plan shall consist of the following elements:
- (1) A location map that shows the project in relation to the larger planning area.
 - (2) The names, addresses, and telephone numbers of owners, mortgages, registered surveyors, land planners, architects, landscape architects, and professional engineers responsible for the development.
 - (3) The name of the development.
 - (4) Date of plan preparation.
 - (5) A north arrow, legend and scale (including a bar scale)
 - (6) Environmental Features. A site plan shall show existing and proposed features of the site, including (where applicable):
 - a) Natural cover (wood, pastureland, etc.).
 - b) Streams, ponds or rivers.
 - c) Historic sites.
 - d) Fragile environmental areas.
 - e) The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade)
 - f) Contour lines shown as dotted lines at no more than two-foot intervals (this may be modified by zoning administrator depending upon topography).
 - g) The location, size, and dimensions of all recreational areas and areas intended to remain as permanent open space, clearly indicating whether such open space areas are intended to be offered for dedication to the public.

- (7) Dimensions and layouts of all parking and loading areas including properly designated handicapped spaces.
- (8) Public and private streets and alleys, including planned points of ingress and egress. Driveway approval procedures as required by the NC Department of Transportation shall be initiated.
- (9) Storm water structures and conveyances and a Stormwater Drainage Plan.
- (10) Utilities, including water, sewer, electric, power, and telephone.
- (11) The location and dimensions of all structures, including freestanding signs including:
 - a) The number of dwelling units the building is designed to accommodate, if applicable.
 - b) The height and number of stories of the structure.
- (12) Lighting plan.
- (13) All sidewalks, trails, and pedestrian paths.
- (14) Landscaping Plan. A landscaping plan in accordance with section 403.8.
- (15) Legal features including:
 - a) The zoning of the property and adjacent properties, including zoning district lines.
 - b) Property lines.
 - c) Project phase lines.
 - d) Street rights-of-way.
 - e) Utility easements (including water, sewer, electric, power, storm water, and telephone).
 - f) Lot dimensions.
- (16) Sign detail required. Whenever a new sign or change in existing sign would require the issuance of a permit, detailed designs showing all relevant information required to determine compliance with the sign regulations shall be required as part of a complete application.
- (17) In addition to the information required above, manufactured home parks shall provide the following information on the site plan:
 - a) Location of all manufactured home spaces with dimensions
 - b) All recreation and convenience areas including parks, laundry facilities, swimming pools etc.
 - c) Location of park office
 - d) Location of dumpsters and sanitation facilities.

- (D) Plan Exemption. The Zoning Administrator may, in writing, exempt the applicant from meeting any plan requirement which is clearly inapplicable to the proposed use.

602.3 Cancellation of Permit

Any permit issued shall become invalid unless the work authorized by it shall have been commenced within twelve (12) months of its date of issue, or if the work authorized by it is suspended or abandoned for a period in excess of two (2) years.

602.4 Record of Zoning Permits

A record of all zoning permits shall be kept on file in the office of the Town Clerk and open to the public, subject to State law.

603 CERTIFICATE OF OCCUPANCY/COMPLIANCE

No land shall be used or occupied, and no building or structure erected or altered shall be used or changed in use until a Certificate of Occupancy/Compliance has been issued by the Zoning Administrator stating that the building and/or the proposed use complies with the provisions of this ordinance. A certificate of the same shall be required for the purpose of changing any existing use; as well as for maintaining, reviewing, changing, or extending any nonconforming use. The aforementioned Certificate shall be applied for coincidentally with the application for a zoning permit and shall be issued within ten (10) working days after the erection or alterations of such building or part shall have been completed in conformity with the provisions of this ordinance. A record of all such certificates shall be kept on file and open to the public, subject to State law.

604 CONFORMANCE WITH PLANS

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction.

605 RIGHT OF APPEAL

If the zoning permit and/or Occupancy/Compliance Certificates are denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment.

606 SPECIAL USES

The provisions of this ordinance permits some uses to be established by right in the appropriate district while other uses are listed which require a permit from the Town Board of Commissioners. These uses, in some circumstances, may be compatible with and desirable in the districts in which they are designated as special uses, but they may also have characteristics which could have detrimental effects if not properly designed and controlled. All special use permit requests require a public hearing in accordance with Section 607 and must meet the conditions of section 606.1. Some uses due to their nature require design standards in addition to the general conditions listed below. Design standards for individual uses are found in Section 405.

606.1 Conditions which must be met by Special Uses

(A) General Conditions

In order for any special or conditional use to be granted, the applicant, at the hearing, shall present sufficient evidence to enable the Board to find that the following conditions exist where applicable:

- (1) All applicable specific conditions pertaining to the proposed use have been or will be satisfied.
- (2) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.
- (3) Off-street parking, loading, refuse, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
- (4) Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.
- (5) The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts.
- (6) The type, size, and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

606.2 Additional Conditions

If the Town Board approves a special use, it may, as part of the terms of such approval, impose any additional reasonable conditions and safeguards as may be necessary to insure that the criteria for the granting of such a permit will be complied with and to reduce or minimize any potentially injurious effect of the use on adjoining properties, the character of the neighborhood, or the health, safety, morals, or general welfare of the community. Where appropriate, such conditions may include requirements that street and utility right-of-way be dedicated to the public and that provision be made of recreational space and facilities.

607 APPLICATION AND HEARING PROCEDURES FOR APPEALS, VARIANCES, AND SPECIAL USES

607.1 Applications

The applicant shall submit the appropriate appeal for administrative review, or for a variance, in accordance with section 601.3 (B) (1) & (2).

Applications for a Special Use Permit shall be accompanied by a site plan prepared in accordance with Section 602.2(B) in the number of copies established by and along with any other information required by the Zoning Administrator for proper review of the application.

607.2 Hearing Procedure

The Pine Level Board of Commissioners for special uses shall cause a public hearing to be held on the application and shall give due notice of the hearing to the parties involved.

- (A) Planning Board Review. In the case of a Special Use Permit application, the Planning Board shall be given sixty (60) days to review the application, before the hearing. No part of the Planning Board's preliminary forum or recommendation may be used as a basis for the quasi-judicial decision by the Town Board.
- (B) Quasi-Judicial Procedure. All hearings by the Board of Adjustment for administrative appeals, variances, and by the Board of Commissioners for Special Use permits shall be conducted as quasi-judicial hearings in accordance with the general law and court decisions of the State. More specifically, any interested party must be given the opportunity to present evidence or testimony, to cross-examine witnesses, to inspect documents, and to offer evidence or testimony in explanation or rebuttal. Findings shall be based on substantial evidence or testimony which is competent, relevant, and material. Findings as to the existence or nonexistence of crucial facts shall be based on sworn evidence or testimony unless the party or parties before the Board stipulate the facts or waive this requirement.
- (C) Conflict of Interest. A member of any board exercising the functions of a Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- (D) Voting. A four-fifths (4/5) majority vote of all board members is necessary for the Board of Adjustment to grant a variance. Only a simple majority vote is required for the Board of Commissioners to grant a special use permit. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculations of the requisite majority if there are no qualified alternates available to take the place of such board members.

The Clerk of the Board shall keep minutes of the proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact.

607.3 Fees

A fee in accordance with the Town's adopted fee schedule shall be paid to the Town for each application for an administrative review, variance, or Special Use Permit not initiated by an officer or agency of the Town, to cover the costs of advertising and other administrative expenses involved. No application will be processed until the above fee has been paid.

608 AMENDMENTS

This zoning ordinance, including the zoning map, may be amended only by the Board of Commissioners of the Town of Pine Level, according to the procedures of this Article. Proposed amendments may be initiated by the Board of Commissioners or Planning Board of the Town of Pine Level. Proposed amendments to the text of this ordinance may also be initiated by any resident or property owner within the jurisdiction covered by this ordinance, and any property owner within the jurisdiction covered by this ordinance may initiate a request for a change in the zoning classification of his property. No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town.

608.1 Application

(A) Map Amendments. Except for amendments initiated by the Town Board, Planning Board, or Board of Adjustment, no proposed amendment shall be considered by the Town Board nor a public hearing held until an application made on a form provided by the Town, and containing the following information is submitted by the applicant:

- (1) A statement of the present zoning regulations or district boundary
- (2) The name and signature of the applicant
- (3) The tax parcel number of the lot proposed to be rezoned,
- (4) The names and addresses of the owners of the lot in question,
- (5) A map of the proposed amendment showing tax parcel number of the subject property and adjacent properties shall be attached to the application. The map shall show ownership of adjacent lots along with the use of each adjacent property.

The applicant shall provide any additional information related to the proposed amendment requested in writing by the Planning Board or Board of Commissioners. The Zoning Administrator shall transmit the original application to the Town Board and the original application shall be filed in the office of the Town Clerk after consideration by the Town Board. A fee shall be paid to the Town for each application not initiated by an officer or agency of the Town to cover the costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid.

- (B) Text Amendments. A petition for amendment to the text of this ordinance shall consist of:
- (1) A completed application form.
 - (2) A written justification for the requested amendment including consistency of the proposal with Town planning policies.
 - (3) Any other information deemed necessary by the zoning administrator or review board.

A fee in accordance with the adopted fee schedule shall be paid to the Town for each application not initiated by an officer or agency of the Town to cover the costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid.

608.2 Public Hearing

- (A) Planning Board Recommendation. No amendment shall be adopted by the Board of Commissioners until they have held a public hearing on the amendment, and shall have given the Planning Board at least thirty (30) days before the public hearing to make a recommendation concerning the amendment. The Planning Board shall submit its recommendation report in writing to the Town Clerk prior to the public hearing. Included in the report shall be the following elements:

Statement of Consistency with Adopted Plans. In accordance with G.S. 160D-604, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any adopted comprehensive, or other official plan. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval by the Board of Commissioners.

Statement for Small-Scale Rezoning. When the proposed zoning map amendment meets the definition of a small-scale rezoning, the Planning Board shall include a statement analyzing the reasonableness of the amendment as part of its report to the Board of Commissioners. The statement shall address the following characteristics of the petition:

1. Size of area and its particular characteristics
2. Consistency of rezoning with the comprehensive plan or other officially adopted Town plans that are applicable
3. Degree of change in uses allowed in relation to surrounding uses
4. Relative harm and benefit to owner, neighbors, and the community

Small Scale Rezoning Defined. A small-scale rezoning shall be defined as the zoning of a relatively small area of land differently from the way the majority of the surrounding land is zoned. Small-scale (or spot zoning) is legal only if the Town establishes that it is reasonable. Reasonableness is determined by considering the size of the area, any special conditions or factors regarding the

area, the consistency of the zoning with the land use plan, the degree change in zoning, the degree it allows uses different from the surrounding area, and the relative benefits and detriments for the owner, the neighbors, and the surrounding community.

- (B) Hearing Notification. Notice of the public hearing shall be published in a newspaper of general circulation in the Pine Level area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts. The person or persons mailing such notices shall certify to the Pine Level Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

Alternative method of notification. If a zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, the Town may, as an alternative method of notification, elect to publish notice of the hearing as required by G.S. 160D-602. Such notification shall not be less than one-half of a newspaper page in size. The advertisement shall be effective only for owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the newspaper circulation area, according to the address listed on the most recent tax listing for the affected property, shall be notified according to the first class mail provisions listed above.

Posting of Hearing Notices. When a zoning map amendment is proposed the Town shall post a notice of the public hearing on the site proposed for the rezoning or on an adjacent right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice of interested persons.

- (C) Governing Board Statement. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with the adopted comprehensive plan. Such statement shall explain why the board considers the action taken to be reasonable and in the public interest.

609 ENFORCEMENT

609.1 General Enforcement

Violations of this ordinance shall constitute a misdemeanor and/or at the election of the Town, shall subject the violator to civil penalties and/or where permitted by law, equitable remedies for said violation as hereinafter provided.

609.2 Injunction and Order of Abatement Remedies

- (A) Any provision of this ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the general court of justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- (B) The Town shall issue notices of violations (NOVs) in conformance with North Carolina statutory procedures, which may include, but are not limited to: delivering NOV to the permittee and landowner if different; may deliver to the occupant or person undertaking the activity; delivery by hand, email, for first-class mail; may be posted onsite; and have the appropriate town administrator certify the NOV for the file.
- (C) An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the Judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the Judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

609.3 Civil Penalties

- (A) Notice of Violation. Upon determination of a violation of any section of this ordinance the penalty for which is a civil penalty, the Town shall cause a notice of violation to be issued to the violator by the appropriate official of the Town and served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the Town or as obtained from the violator or his agent. The appropriate Town official serving the notice of violation shall sign and have notarized an affidavit describing the type of service and the date of service. The

violator shall be deemed to have been served upon the mailing or personal service of the notice of violation.

The notice of violation shall set out the nature of the violation, the Code section or ordinance violated, the date or dates of the violation, and shall contain an order to immediately cease the violation. The notice of violation shall specify that a second and subsequent citations will assess a civil penalty, together with costs, attorney fees, and such other relief as provided by law. The notice of violation shall also inform the violator of the violator's appeal rights. If the violation is in the nature of an offense for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated within which the violation must be abated.

- (B) Appeals. The violator must file an appeal from a notice of violation within 10 days from the service date of the notice of violation as indicated on the affidavit of service. An appeal is deemed filed when it is received by the Town Clerk. Forms and instructions for filing an appeal shall be made available at the office of the Town Clerk. A violator who fails to file an appeal within the time period described above is deemed to have forfeited the appeal for the violation, the notice of violation, the civil citations, and the civil penalties assessed for the violation. Appeals shall be heard by the Board of Adjustment or other administrative process established by the Town. The decision of the Board of Adjustment is subject to review in the Superior Court of Johnston County in the nature of certiorari.
- (C) Extensions Allowed. Where the Town determines that the period of time stated in the original notice of violation is not sufficient for abatement based upon the work required or based on a consent agreement, the Town may amend the notice of violation to provide for additional time.
- (D) Civil Citation. Upon failure of the violator to comply with the notice of violation within 10 days of service, a civil citation in the amount of fifty dollars (\$50.00) shall be issued by the appropriate official of the Town and served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the Town or obtained from the violator or his agent.
- (E) Citation Contents and Repeat Violations. The civil citation shall direct the violator to immediately cease the violation, shall inform the violator of the penalty amount, and shall direct the violator to make payment at Town Hall within 10 days of the date of the civil citation, or alternatively to pay the citation by mail postmarked within 10 days of service of the civil citation. Once a notice of violation has been issued and the 10-day warning period has expired, civil citations in the amount of fifty dollars (\$50.00) may be issued for each day the same or similar violation continues until the prohibited activity is ceased or abated. If a violation is repeated within a two-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies as set forth in this section. A repeat violation is one which is identical to or reasonably similar to a previous violation for which a notice of violation or civil citation has been issued by the Town.

- (F) Settlement of Civil Claim. If the violator fails to respond to a civil citation within 10 days of its service, and pay the penalty prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Court of Justice for the collection of the penalty, costs, attorney fees and such other relief as permitted by law.

609.4 Criminal Penalties

Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not to exceed five hundred dollars (\$500) and/or imprisonment for a period not to exceed thirty (30) days. Each day a violation continues shall be deemed a separate offense provided that the violation of this article is not corrected within thirty days after notice of said violation is given.

610 CONFLICTS-OF-INTEREST

- (A) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (B) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (C) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

- (D) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (E) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (F) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.